

Montana Bank Act

32-1-101. Short title -- application -- purpose. (1) Parts 1 through 5 of this chapter may be known as the "Bank Act".

(2) The Bank Act is applicable to:

(a) all corporations and persons specified in [32-1-102](#);

(b) corporations that subject themselves to the Bank Act; and

(c) persons, partnerships, or corporations who by violating the Bank Act become subject to the penalties provided in the Bank Act.

(3) (a) The purpose of the Bank Act is to provide Montana with a sound system of state-chartered banks by providing for and encouraging the development of state-chartered banks while restricting their activities to the extent necessary to protect the interests of depositors. The purpose includes:

(i) the sound conduct of the business of banks;

(ii) the conservation of bank assets;

(iii) the maintenance of adequate reserves against deposits;

(iv) the opportunity for banks to compete with other businesses, including but not limited to other financial organizations existing under the laws of this state, other states, the United States, and foreign countries;

(v) the opportunity for banks to serve the citizens of this state;

(vi) the opportunity for banks to participate in and promote the economic progress of Montana and the United States;

(vii) the opportunity for the management of banks to exercise business judgment in conducting the affairs of their institutions; and

(viii) modernization and simplification of the law governing banking by providing that banks have all the rights and powers granted corporations, except as otherwise provided in this chapter.

(b) The Bank Act does not restrict the activities of banks for the purpose of protecting any person from competition from banks and does not confer any right or cause of action upon any competitor.

(c) The purpose contained in this subsection (3) constitutes the standards to be observed by the commissioner of banking and financial institutions in the exercise of authority under the Bank Act and provides guidelines in the construction and application of the Bank Act.

History: En. Sec. 1, Ch. 89, L. 1927; re-en. Sec. 6014.1, R.C.M. 1935; R.C.M. 1947, 5-101; amd. Sec. 4, Ch. 395, L. 1993; amd. Sec. 74, Ch. 382, L. 1997; amd. Sec. 10, Ch. 163, L. 2005.

32-1-102. Institutions to which chapter is applicable. (1) The word "bank" as used in this chapter means any corporation that has been incorporated to conduct the business of receiving money on deposit or transacting a trust or investment business, as defined in this chapter.

(2) The soliciting, receiving, or accepting of money or its equivalent on

deposit as a regular business is doing a commercial or savings bank business, whether the deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, or other receipt. This section does not apply to or include money or its equivalent left in escrow or left with an agent pending investment in real estate or securities for or on account of the agent's principal.

(3) It is unlawful for any corporation, partnership, firm, or individual to engage in or transact a banking business within this state except by means of a corporation duly organized for that purpose.

(4) Banks are divided into the following classes:

- (a) commercial banks;
- (b) savings banks;
- (c) trust companies;
- (d) investment companies.

(5) This chapter does not apply to any investment company or corporation established prior to March 8, 1927, under authority of the law of Montana not accepting, receiving, or holding money on deposit.

(6) This chapter does not apply to a student financial institution, as defined in [32-1-115](#).

History: En. Sec. 2, Ch. 89, L. 1927; re-en. Sec. 6014.2, R.C.M. 1935; amd. Sec. 1, Ch. 71, L. 1977; R.C.M. 1947, 5-102; amd. Sec. 75, Ch. 382, L. 1997; amd. Sec. 3, Ch. 340, L. 2003; amd. Sec. 11, Ch. 163, L. 2005.

32-1-103. Repealed. Sec. 4, Ch. 15, L. 2005.

History: En. Sec. 31, Ch. 89, L. 1927; re-en. Sec. 6014.35, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-510.

32-1-104. Number of persons necessary to form corporation.

Corporations may be formed by any number of natural persons or by a corporation or other entity authorized to own or control banks and organized under the laws of this state to conduct, as provided in this chapter, the businesses mentioned in [32-1-102](#).

History: En. Sec. 3, Ch. 89, L. 1927; re-en. Sec. 6014.3, R.C.M. 1935; R.C.M. 1947, 5-103; amd. Sec. 1, Ch. 117, L. 1997.

32-1-105. Commercial bank defined. The term "commercial bank" means any bank authorized by law to:

- (1) receive deposits of money;
- (2) deal in commercial paper or make loans on commercial paper;
- (3) lend money on real or personal property;
- (4) engage in business activities directly or indirectly through affiliates or subsidiaries;

- (5) discount bills, notes, or other commercial papers; and
- (6) buy and sell securities, gold and silver bullion, foreign coins, or bills of exchange.

History: En. Subd. a, Sec. 4, Ch. 89, L. 1927; re-en. Sec. 6014.4, R.C.M. 1935; R.C.M. 1947, 5-104; amd. Sec. 1, Ch. 129, L. 1981; amd. Sec. 1, Ch. 100, L. 1999.

32-1-106. Savings bank defined. The term "savings bank" means a bank organized only for the purpose of accumulating and loaning the funds of its members, stockholders, and depositors and which may:

- (1) loan and invest the funds thereof;
- (2) receive deposits of money; loan, invest, and collect the same with interest; and repay depositors with or without interest;
- (3) sell credit life and disability insurance on loans to its borrowers;
- (4) invest said funds and moneys in such property, securities, and obligations as may be prescribed by this chapter; and
- (5) declare and pay:
 - (a) dividends on its general deposits; and
 - (b) a stipulated rate of interest on deposits made for a stated period or upon special terms.

History: En. Subd. b, Sec. 4, Ch. 89, L. 1927; re-en. Sec. 6014.5, R.C.M. 1935; R.C.M. 1947, 5-105; amd. Sec. 2, Ch. 129, L. 1981.

32-1-107. Trust company defined -- purposes for which may be formed. The term "trust company" means any corporation that is incorporated under the laws of this state for any one or more of the following purposes:

- (1) to receive money in trust and to accumulate the money at rates of interest as may be obtained or agreed upon or to allow interest on the money as may be agreed upon;
- (2) to accept and execute all trusts and perform the duties committed to them by any person or by any corporations or may be committed or transferred to them by order of any of the courts of record of this state or any other state or of the United States;
- (3) to take and accept by grant, assignment, transfer, devise, or bequest and hold any real or personal estate or trust created in accordance with the laws of this state or any other state or of the United States and execute the legal trusts in regard to the same on the terms as may be declared, established, or agreed upon in regard to the estate or trust;
- (4) to act as agent for the investment of money for other persons or corporations and as agents for persons and corporations for the purpose of issuing, registering, transferring, or countersigning the certificates of stock,

bonds, or other evidence of debt of any corporation, association, municipality, state, or public authority as may be agreed upon;

(5) to accept from and execute trusts for married persons in respect to their individual property, whether real or personal, and act as agents for them in the management of the property and generally to have and exercise powers as are usually had and exercised by trust companies;

(6) to act as trustee, assignee, or receiver in all cases where it is lawful for any court of record, officer, corporation, or person to appoint a trustee, assignee, or receiver and to be appointed a trustee, assignee, or receiver and to be appointed, commissioned, and act as administrator of any estate, executor of any last will and testament of any deceased person, and as guardian of the person and estate of any minor or minors or of the estate of any person of unsound mind, spendthrift, habitual drunkard, or other persons disqualified or unable to manage their estates;

(7) to loan money upon unencumbered real estate, collateral, or personal security and execute and issue notes and debentures payable at a future date and to pledge its mortgages upon real estate and other securities as security for the notes and debentures;

(8) to buy and sell:

(a) government, state, county, municipal, and other bonds. The trust company may invest in United States obligations either directly or in the form of securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as amended, if:

(i) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and

(ii) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian.

(b) all kinds of negotiable, nonnegotiable, and commercial paper, stocks, and other investment securities; and

(c) gold and silver bullion, foreign coins, bills of exchange, and foreign and domestic exchange;

(9) to accept, receive, and hold money on deposit, payable either on time or on demand, with or without interest, as may be agreed upon with the depositors; to take and receive from any individual or corporation on deposit for safekeeping and storage, gold and silver plate, jewelry, stocks, securities, and other valuable and personal property; to collect coupons, interest, and dividends on securities described in this section; and to rent out the use of safes and other receptacles on their premises upon terms and for compensation as may be agreed upon.

History: En. Subd. c, Sec. 4, Ch. 89, L. 1927; re-en. Sec. 6014.6, R.C.M. 1935; amd. Sec. 18, Ch. 293, L. 1975; R.C.M. 1947, 5-106; amd. Sec. 2, Ch. 137, L. 1989.

32-1-108. Investment company defined -- purposes for which may be formed. The term "investment company" means any corporation which is incorporated under the laws of this state for any one or more of the following purposes:

(1) to receive moneys in trust and to accumulate the same at such rates of interest as may be obtained or agreed upon or to allow such interest as may be agreed upon and to issue and sell its contracts or certificates of indebtedness, directly or through an agent or broker, bearing fixed rates of interest, in whole or in part, with participation or nonparticipation in the profits of the corporation and maturing at fixed periods of time, or otherwise, as may be fully set forth in said contracts or certificates;

(2) to buy and sell government, state, county, municipal, and other bonds and all kinds of negotiable and nonnegotiable and commercial paper, stocks, and other investment securities;

(3) to accept, receive, and hold money on deposit, payable either on time or on demand, with or without interest, as may be agreed upon with depositors, and to collect coupons, interest, and dividends on securities described in (2).

History: En. Subd. d, Sec. 4, Ch. 89, L. 1927; re-en. Sec. 6014.7, R.C.M. 1935; R.C.M. 1947, 5-107.

32-1-109. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Affiliate" has the meaning given that term in 12 U.S.C. 1841(k).

(2) "Bank holding company" means a bank holding company or a financial holding company registered under the federal Bank Holding Company Act of 1956, as amended.

(3) "Board" means the state banking board provided for in [2-15-1025](#).

(4) "Branch bank" means:

(a) a banking house, other than the main banking house, maintained and operated by a bank doing business in the state and at which deposits are received, checks are paid, or money is lent, but does not include a satellite terminal, as defined in [32-6-103](#), or the office of an affiliated depository institution acting as an agent; and

(b) in the case of a trust company, any office at which trust services are provided.

(5) "Capital", "capital stock", and "paid-in capital" mean that fund for which certificates of stock are issued to stockholders.

(6) "Consolidate" and "merge" mean the same thing and may be used interchangeably in this chapter.

(7) "Demand deposits" means all deposits, the payment of which can legally be required when demanded.

(8) "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

(9) "Depository institution" means a bank or savings association organized under the laws of a state or the United States.

(10) "Division" means the division of banking and financial institutions of the department.

(11) "Insured depository institution" means a bank or savings association in which the deposits are insured by the federal deposit insurance corporation.

(12) "Main banking house" means the designated principal place of business of a bank in the state.

(13) "Net earnings" means the excess of the gross earnings of a bank over expenses and losses chargeable against those earnings during any 1 year.

(14) "Principal shareholder" means a person who directly or indirectly owns or controls, individually or through others, more than 10% of any class of voting stock.

(15) "Profit and loss account" or "profit and loss" means that account carried on the books of the bank into which all earnings accounts and recoveries are closed, thus exhibiting "gross earnings", and against which all loss and other disbursement items are charged, revealing "net earnings", which are then properly closed to "undivided profits accounts" or "undivided profits", out of which dividends are paid and reserves set aside.

(16) "Savings association" means a savings association or savings bank organized under the laws of the United States or a building and loan association, savings and loan association, or similar entity organized under the laws of a state.

(17) "Shell bank" means a bank organized solely for the purpose of, and that does not conduct any banking business prior to, acquiring control of, merging with, or acquiring all or substantially all of the assets of an existing bank or savings association.

(18) "Subsidiary" means a company 25% or more of whose voting shares or equity interests are owned and controlled by a bank.

(19) "Surplus" means a fund paid in or created under this chapter by a bank from its net earnings or undivided profits that, when set apart and designated as surplus, is not available for the payment of dividends and cannot be used for the payment of expenses or losses so long as the bank has undivided profits.

(20) "Time deposits" means all deposits, the payment of which cannot legally be required within 7 days.

(21) "Undivided profits" means the credit balance of the profit and loss account of a bank.

History: En. Sec. 5, Ch. 89, L. 1927; re-en. Sec. 6014.9, R.C.M. 1935; amd. Sec. 1, Ch. 431, L. 1975; R.C.M. 1947, 5-109; amd. Sec. 2, Ch. 274, L. 1981; amd. Sec. 1, Ch. 483, L. 1983; amd. Sec. 2, Ch. 75, L. 1985; amd. Sec. 1, Ch. 322, L. 1989; amd. Sec. 5, Ch. 395, L. 1993; amd. Sec. 2, Ch. 117, L. 1997; amd. Sec. 2, Ch. 100, L. 1999; amd. Sec. 1, Ch. 36, L. 2001; amd. Sec. 75, Ch. 483, L. 2001.

32-1-110. Punishment. When no other punishment is provided, a person willfully or knowingly violating parts 1 through 5 of this chapter is guilty of a misdemeanor. Upon information furnished by the department, the attorney general shall sue to enforce parts 1 through 5 of this chapter.

History: En. Sec. 143, Ch. 89, L. 1927; re-en. Sec. 6014.153, R.C.M. 1935; amd. Sec. 61, Ch. 431, L. 1975; R.C.M. 1947, 5-1123.

32-1-111. Attachments prohibited. No property owned by any bank organized under the laws of the state of Montana shall be subject to attachment.

History: En. Sec. 96, Ch. 89, L. 1927; re-en. Sec. 6014.107, R.C.M. 1935; R.C.M. 1947, 5-1023.

32-1-112. Applicability of corporation law. (1) Except as provided in subsection (2), the provisions of Title 35, chapter 1, apply to banks unless a section in this title or a rule or order issued under this chapter is inconsistent with Title 35, chapter 1.

(2) The provisions of [35-1-114](#), [35-1-115](#)(4) through (10), [35-1-308](#)(1), [35-1-623](#)(2), [35-1-936](#), [35-1-1106](#), [35-1-1107](#), and Title 35, chapter 1, part 10, do not apply to banks.

History: En. Sec. 13, Ch. 395, L. 1993; amd. Sec. 5, Ch. 71, L. 2005.

32-1-113 through 32-1-114 reserved.

32-1-115. Student financial institution defined -- obligations of minor -- applicability of laws. (1) The term "student financial institution" means a financial institution that:

- (a) is operated as a high school education program;
- (b) is adopted by a school district board of trustees;
- (c) is advised by but not owned by one or more state-chartered or federally chartered financial institutions, limited to a state or national bank, a state or federal savings and loan association, a trust company, an investment company, or a state or federal credit union;
- (d) is located on property owned by a high school district, as defined in [20-6-101](#), or a K-12 school district, as defined in [20-6-701](#);
- (e) has as its customers only those students who are enrolled in the high

school in which the institution is located; and

(f) has a written commitment from the school district board of trustees guaranteeing reimbursement of any depositor's funds that are lost due to insolvency of the student financial institution.

(2) The funds of a student financial institution are not school district or public funds for the purposes of any state law governing the use or investment of school district or other public funds.

(3) To advise a student financial institution, a state-chartered bank, savings and loan association, trust company, investment company, or credit union shall provide written notice to the department of administration.

(4) With regard to the operation of a student financial institution, the obligations of a minor pertaining to borrowing money, cashing checks, and making deposits have the same force and effect as though they were the obligations of a person over the age of majority.

(5) Except as provided in [32-1-102](#), [32-1-402](#), and [32-3-106](#), a student financial institution established pursuant to this section is not subject to Title 32, chapters 1 through 3, or any other provision of state law that regulates banks, credit unions, other financial institutions, or currency exchanges.

History: En. Sec. 1, Ch. 340, L. 2003.

32-1-201. State banking board -- secretary -- meetings -- per diem.

(1) The state banking board, created in [2-15-1025](#), shall elect a secretary from its members to serve at the pleasure of the board.

(2) In performing its functions, the board shall have use of the offices, equipment, and personnel of the department as it requires.

(3) The board shall hold meetings at the office of the department at dates and times set by the department. Special meetings may be called by the presiding officer at any time upon 3 days' notice to the members.

(4) A quorum for all meetings is a majority of the board members, and a majority of the quorum present at any meeting may take action.

(5) A board member may be removed by the governor without cause in any case.

(6) The board members shall receive compensation and travel expenses in the same manner and amount as provided for in [37-1-133](#) for boards allocated to the department of administration. The costs and expenses of the board are legitimate charges of the department.

History: En. Sec. 3, Ch. 420, L. 1973; amd. Sec. 11, Ch. 71, L. 1977; amd. Sec. 2, Ch. 453, L. 1977; R.C.M. 1947, 5-609; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 6, Ch. 474, L. 1981; amd. Sec. 1, Ch. 9, L. 1987; amd. Sec. 7, Ch. 395, L. 1993; amd. Sec. 76, Ch. 483, L. 2001.

32-1-202. Powers and duties of board. The board shall:

- (1) make final determinations upon applications for certificates of authorization for new banks;
- (2) act in an advisory capacity with respect to the duties and powers given by statute or otherwise to the department as the duties and powers relate to banking;
- (3) upon request of an applicant or the department, review a decision of the department on an application for the formation or closure of branch banks, sales of branch banks, or the consolidation, merger, or relocation of banks and branch banks; and
- (4) conduct hearings as provided in [32-1-204](#).

History: En. Sec. 4, Ch. 420, L. 1973; amd. Sec. 22, Ch. 431, L. 1975; amd. Sec. 12, Ch. 71, L. 1977; R.C.M. 1947, 5-610; amd. Sec. 2, Ch. 274, L. 1981; amd. Sec. 2, Ch. 322, L. 1989; amd. Sec. 8, Ch. 395, L. 1993; amd. Sec. 2, Ch. 265, L. 1995; amd. Sec. 3, Ch. 117, L. 1997; amd. Sec. 76, Ch. 382, L. 1997; amd. Sec. 12, Ch. 163, L. 2005

32-1-203. Rules adopted by board -- new banks. The board may adopt rules necessary for the administration of [32-1-201](#) through [32-1-206](#) in accordance with the Montana Administrative Procedure Act. In particular, the board shall adopt rules concerning the authorization of new banks organized under the laws of this state. Rules must contain minimum standards under which an application for a new bank must be determined, including the following:

- (1) a persuasive showing that there is a reasonable public necessity and demand for a new bank at the proposed location;
- (2) that the bank will be owned and managed by persons of good moral character and financial integrity and will be safely and soundly operated;
- (3) a persuasive showing that the new bank will have a sufficient volume of business to ensure solvency and that establishment of the new bank organized under the laws of this state will be in the public interest.

History: En. Sec. 5, Ch. 420, L. 1973; amd. Sec. 23, Ch. 431, L. 1975; amd. Sec. 13, Ch. 71, L. 1977; R.C.M. 1947, 5-611; amd. Sec. 3, Ch. 322, L. 1989; amd. Sec. 4, Ch. 117, L. 1997.

32-1-204. Hearings -- notice. (1) (a) A hearing must be conducted upon all applications for new bank certificates of authorization, in accordance with the Montana Administrative Procedure Act relating to a contested case, whether or not any protest to the application is filed.

(b) A notice of the filing of an application for a new bank certificate of authorization must be mailed to all banks within 100 miles of the proposed

location, measured in a straight line.

(c) A hearing may not be conducted sooner than 30 days or later than 90 days following the mailing of the notice.

(d) A bank filing a written protest with the board prior to the date of the hearing must be admitted as a "party", as defined in the Montana Administrative Procedure Act, with full rights of a party, including the right of subpoena of witnesses and written materials, the right of cross-examination, the right to have a transcript, the right to receive all notices, a copy of the application, and all orders, and the right of judicial review and appeal.

(e) Notwithstanding the requirements of subsections (1)(a) through (1)(d), when the deposit liability of any closed bank is to be transferred to or assumed by a state bank being organized for that purpose, the board may issue a certificate of authorization without notice or hearing, according to rules adopted by the board.

(2) (a) A hearing must be conducted by the board upon the request of a person timely protesting an application for the formation, relocation, closure, or sale of a branch bank or for the consolidation, merger, or relocation of a bank if the application is approved by the department and if the board determines that there is a substantial basis for the protest. A person requesting a hearing under this subsection (2)(a) is entitled to judicial review of a denial of a hearing by the board.

(b) If a hearing is required under this subsection (2), the hearing may not be held sooner than 30 days or later than 90 days following the filing of the request for a hearing by the protesting party. A protesting party must be admitted as a party, as defined in the Montana Administrative Procedure Act, with full rights of a party, including the right of judicial review and appeal.

History: En. Sec. 6, Ch. 420, L. 1973; amd. Sec. 24, Ch. 431, L. 1975; R.C.M. 1947, 5-612; amd. Sec. 1, Ch. 567, L. 1987; amd. Sec. 3, Ch. 265, L. 1995; amd. Sec. 5, Ch. 117, L. 1997.

32-1-205. Board rules for discovery and hearing procedures. (1) The board shall, under rules adopted by it, permit prehearing discovery procedures, including the taking of depositions and the production of documents. The rules of civil procedure for state courts shall furnish guidelines for such rules.

(2) In adopting rules for hearings, the board shall provide for the issuance of subpoenas and for the administration of oaths to witnesses and parties or their representatives, to apply both to discovery procedures and to hearings, and the board shall have authority to provide for issuance of subpoenas and administration of oaths.

History: En. Sec. 7, Ch. 420, L. 1973; R.C.M. 1947, 5-613; amd. Sec. 139, Ch. 575, L. 1981.

32-1-206. Disqualification of board member -- when. Any board member shall disqualify himself from acting upon any matter in which he or any bank or financial institution in which he has a direct or indirect interest is involved, competitively or otherwise.

History: En. Sec. 8, Ch. 420, L. 1973; R.C.M. 1947, 5-614.

32-1-207 through 32-1-210 reserved.

32-1-211. Examination and supervision by department -- division of banking and financial institutions -- commissioner. (1) The department shall exercise constant supervision over the books and affairs of all banks and trust companies doing business in this state.

(2) Except as provided in subsection (9), the department shall:

(a) examine, at least once every 24 months, each bank or trust company and verify the assets and liabilities of each and investigate the character and value of the assets of each as to ascertain with reasonable certainty that the values are correctly carried on the books; and

(b) submit in writing to the examined bank or trust company a report of the examination's findings no later than 60 days after the completion of the examination.

(3) The department shall investigate the methods of operation and conduct of business of the banks and trust companies and their systems of accounting to ascertain whether the methods and systems are in accordance with law and sound banking principles.

(4) The department may examine under oath any of the officers, directors, agents, clerks, customers, or depositors of a bank or trust company regarding the affairs and business of the bank or trust company.

(5) The department may, in the performance of its official duties, issue subpoenas and administer oaths. In case of a refusal to obey a subpoena issued by the department, the refusal may be reported to the district court of the district in which the bank or trust company is located. The court shall enforce obedience to the subpoena in the manner provided by law for enforcing obedience to the process of the court.

(6) In all matters relating to its official duties, the department has the same power possessed by courts of law to issue subpoenas and have them served and enforced.

(7) All officers, directors, agents, and employees of banks or trust companies doing business under this chapter and all persons having dealings with or knowledge of the affairs or methods of a bank or trust company shall at all times afford reasonable facilities for the examinations and make returns and reports to the department as it may require. They shall also attend hearings and answer under oath the department's inquiries, produce and exhibit any books, accounts,

documents, and property the department desires to inspect, and in all things aid the department in the performance of its duty.

(8) There is within the department a division of banking and financial institutions. The head of the division is the commissioner of banking and financial institutions, who shall exercise supervision and control over the activities and employees of the division. The position of commissioner is an exempt position as provided in [2-18-103](#). The commissioner must be hired by and serve at the pleasure of the director of the department. The director may consult with the board in hiring or terminating the commissioner.

(9) The commissioner may accept as the examination required by this section the findings or results of an examination of a bank or trust company that was made by a regulatory or insuring agency of the United States authorized to make the examination.

History: En. Sec. 71, Ch. 89, L. 1927; re-en. Sec. 6014.75, R.C.M. 1935; amd. Sec. 30, Ch. 431, L. 1975; R.C.M. 1947, 5-901; amd. Sec. 2, Ch. 9, L. 1987; amd. Sec. 1, Ch. 199, L. 1989; amd. Sec. 6, Ch. 395, L. 1993.

32-1-212. Employees not to be interested in banks. A bank examiner may not be interested in or a borrower from any state bank, directly or indirectly.

History: En. Sec. 58, Ch. 89, L. 1927; re-en. Sec. 6014.62, R.C.M. 1935; amd. Sec. 20, Ch. 431, L. 1975; amd. Sec. 10, Ch. 71, L. 1977; R.C.M. 1947, 5-604; amd. Sec. 2, Ch. 274, L. 1981; amd. Sec. 77, Ch. 483, L. 2001.

32-1-213. Payments to be made by banks, investment companies, and trust companies. Each bank, trust company, or investment company under the supervision of the department shall pay to the department fees set by the department by rule to recover all of the costs of administering the program for the supervision of banks, trust companies, and investment companies. The department may amend the rule setting the fees on or before June 1 and December 1 of each year. The funds collected must be deposited in the state special revenue fund for the use of the department in its examination function.

History: En. Sec. 73, Ch. 89, L. 1927; amd. Sec. 1, Ch. 167, L. 1929; re-en. Sec. 6014.82, R.C.M. 1935; amd. Sec. 1, Ch. 59, L. 1953; amd. Sec. 1, Ch. 141, L. 1959; amd. Sec. 1, Ch. 256, L. 1971; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-908; amd. Sec. 1, Ch. 289, L. 1979; amd. Sec. 1, Ch. 507, L. 1983; amd. Sec. 1, Ch. 600, L. 1985; amd. Sec. 6, Ch. 117, L. 1997.

32-1-214. Special examination defined. A special examination is an examination made by the department otherwise than in the ordinary routine of the department because, in its opinion, the condition of the bank requires the

examination or an examination made at the request of the board of directors or stockholders of a bank.

History: En. Sec. 92, Ch. 89, L. 1927; re-en. Sec. 6014.103, R.C.M. 1935; amd. Sec. 35, Ch. 431, L. 1975; amd. Sec. 18, Ch. 71, L. 1977; R.C.M. 1947, 5-1019.

32-1-215. Special examinations and fees -- report within 120 days.

Special examinations may be made of a bank, trust company, investment company, building and loan association, or credit union when in the judgment of the department it is considered necessary, and the special examination shall be charged for at a rate that equals the department's actual costs for examiner wages and travel expenses. All special examination fees or charges shall be paid at the conclusion of the examination, and the moneys collected by the department shall be paid to the state treasurer for the credit of the state special revenue fund for the use of the department in its examination function. The department shall submit in writing to the examined bank a report of the examination's findings no later than 120 days after the completion of the examination.

History: En. Sec. 2, Ch. 167, L. 1929; re-en. Sec. 6014.84, R.C.M. 1935; amd. Sec. 1, Ch. 58, L. 1953; amd. Sec. 1, Ch. 137, L. 1955; amd. Sec. 1, Ch. 180, L. 1959; amd. Sec. 222, Ch. 147, L. 1963; amd. Sec. 22, Ch. 249, L. 1967; amd. Sec. 5, Ch. 256, L. 1971; amd. Sec. 31, Ch. 431, L. 1975; R.C.M. 1947, 5-910; amd. Sec. 2, Ch. 600, L. 1985; amd. Sec. 2, Ch. 199, L. 1989.

32-1-216. Examination at request of directors. When requested in writing, upon the authority of a majority of the board of directors of any bank, to make an examination of such bank, the department shall do so.

History: En. Sec. 93, Ch. 89, L. 1927; re-en. Sec. 6014.104, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-1020.

32-1-217. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 98, Ch. 89, L. 1927; re-en. Sec. 6014.109, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-1025.

32-1-218. Department to make rules. (1) The department may promulgate reasonable rules and orders concerning bookkeeping and accounting by state banks, including the keeping of reasonable credit information, information in connection with assets, or information in connection with charged-off items.

(2) The department may adopt uniform rules to govern the examination and reports of banks and trust companies and prescribe the form in which banks and

trust companies report their assets, liabilities, and reserves.

(3) The department may promulgate reasonable rules concerning applications for and determinations on applications for the formation, relocation, closure, and sale of branch banks and applications for the formation, consolidation, and merger of shell banks.

(4) The department may adopt rules, issue orders and declaratory statements, disseminate information, and exercise its discretion to effectuate the purposes, policies, and provisions of this chapter.

History: (1)En. Sec. 100, Ch. 89, L. 1927; re-en. Sec. 6014.111, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; amd. Sec. 20, Ch. 71, L. 1977; Sec. 5-1027, R.C.M. 1947; (2)En. Sec. 91, Ch. 89, L. 1927; re-en. Sec. 6014.102, R.C.M. 1935; amd. Sec. 34, Ch. 431, L. 1975; Sec. 5-1018, R.C.M. 1947; R.C.M. 1947, 5-1018, 5-1027; amd. Sec. 9, Ch. 395, L. 1993; amd. Sec. 7, Ch. 117, L. 1997.

32-1-219. Reliance on order -- limit on liability. A person acting in good faith reliance upon a rule, order, or declaratory statement issued by the division is not subject to any criminal, civil, or administrative liability for the action if a subsequent decision by a court of competent jurisdiction invalidates the rule, order, or declaratory statement. In the case of an order or declaratory statement that is not of general application, only the person to whom the order or declaratory statement was issued is entitled to rely upon it, unless a third person is dealing with material facts or circumstances that are substantially the same as those upon which the order or declaratory statement was based.

History: En. Sec. 10, Ch. 395, L. 1993.

32-1-220. Access to holding companies and affiliated entities. The division may review the books and affairs of a bank holding company operating under the Bank Holding Company Act of 1956 during the course of a regularly scheduled safety and soundness examination whenever serious regulatory concerns arise that could jeopardize the safety and soundness of the particular subsidiary being examined. The purpose of the authority granted in this section is to resolve serious regulatory concerns that arise during the examination from bank holding company transactions with the subsidiary being examined. The authority granted in this section does not authorize a review of the holding company as a standard procedure when the division has no serious regulatory concerns over transactions with the subsidiary being examined.

History: En. Sec. 11, Ch. 395, L. 1993; amd. Sec. 1, Ch. 148, L. 1997.

32-1-221 through 32-1-230 reserved.

32-1-231. Reports to department. (1) The department shall call for the reports specified in this section at least three times each year.

(2) A bank shall make to the department regular call reports according to the form that may be prescribed by the department, verified by oath or affirmation of the president, vice president, or cashier of the bank and attested by the signature of at least two of the directors other than the subscribing officer.

(3) Each report must exhibit in detail, and under appropriate schedules, the resources and liabilities of the bank at the close of business on any past day specified by the department. The "past day specified" by the department, under the provisions of this section, must be the day designated by the comptroller of currency of the United States for reports of national banking associations.

(4) The report must be transmitted to the department within 30 days after the receipt of a request or requisition for it and must be in a form that the department may require.

History: En. Secs. 61, 64, Ch. 89, L. 1927; re-en. Secs. 6014.65, 6014.68, R.C.M. 1935; amd. Secs. 25, 170, Ch. 431, L. 1975; R.C.M. 1947, 5-701, 5-704; amd. Sec. 2, Ch. 274, L. 1981; amd. Sec. 1, Ch. 186, L. 1985; amd. Sec. 1, Ch. 64, L. 1995.

32-1-232. Report of declaration of dividend. In addition to the report required by [32-1-231](#), a bank shall report to the department within 10 days after declaring any dividend, showing the amount of the dividend and the amount of net earnings in excess of the dividend. The report shall be attested as provided in [32-1-231](#).

History: En. Sec. 62, Ch. 89, L. 1927; re-en. Sec. 6014.66, R.C.M. 1935; amd. Sec. 26, Ch. 431, L. 1975; amd. Sec. 14, Ch. 71, L. 1977; R.C.M. 1947, 5-702.

32-1-233. Special reports to department. In addition to the information obtained from the report required by [32-1-231](#), the department may also require a bank to furnish a special report in writing, verified as required by [32-1-231](#), when in its judgment the special report is necessary to inform it fully of the actual financial condition and affairs of the bank. A willfully false statement in the report is perjury and shall be punished accordingly.

History: En. Sec. 63, Ch. 89, L. 1927; re-en. Sec. 6014.67, R.C.M. 1935; amd. Sec. 27, Ch. 431, L. 1975; R.C.M. 1947, 5-703.

32-1-234. Confidentiality -- penalties. (1) (a) The report and any information contained in the reports and statements provided for, other than those reports which are required to be published, must be considered secret and for the confidential information of the department only. The information may not

be imparted to persons who are not officially associated with the department, and the information contained in the reports and statements may be used by the department only in the furtherance of its official duties.

(b) The department may exchange information with federal financial institution regulatory agencies and with the financial regulatory departments of other states. The department may furnish information to the legislative auditor for use in pursuit of official duties. A prosecuting official may obtain the information by court order.

(2) Any knowledge or information gained or discovered by the department in pursuance of its powers or duties is confidential information of the department. The information may not, except as provided in subsection (1)(b), be imparted to any person not officially associated with the department. The information must be used by the department only in the furtherance of its official duties.

(3) An employee or agent of the department who violates this section or willfully makes a false official report as to the condition of a bank must be removed from office and is also guilty of a felony. Upon conviction, the person shall be fined an amount not exceeding \$1,000, imprisoned in a state correctional facility for a term not exceeding 5 years, or both.

History: En. Secs. 65, 85, Ch. 89, L. 1927; re-en. Secs. 6014.69, 6014.96, R.C.M. 1935; amd. Secs. 28, 33, Ch. 431, L. 1975; R.C.M. 1947, 5-705, 5-1012; amd. Sec. 12, Ch. 395, L. 1993.

32-1-235. Penalty for failure to make report within thirty days. If any bank neglects to make out or transmit the statements required by this chapter within 30 days after call, it shall be subject to a penalty of \$20 for each day in default after the period respectively required by this chapter that it may delay to make and transmit any such statements. Should any bank delay for a period of 1 month to make out and transmit the statements and proofs of publication required by this chapter beyond the period when the same is required to be made or willfully violate any of the provisions of this chapter with reference to said statements and reports, the directors shall be personally responsible for all the debts of such corporation contracted previous to and during the period of such neglect.

History: En. Sec. 66, Ch. 89, L. 1927; re-en. Sec. 6014.70, R.C.M. 1935; R.C.M. 1947, 5-706; amd. Sec. 2, Ch. 186, L. 1985.

32-1-236. False statements and entries considered felony. Every officer or other person authorized by this chapter who willfully and knowingly makes any false statement of facts, statement of account, or report and every officer, agent, or clerk of any bank who willfully and knowingly makes any false entries in the books of such bank or knowingly subscribes or exhibits false papers with the intent to deceive any person authorized to examine such bank

and every person authorized by the provisions of this chapter to make statements or reports who willfully and knowingly subscribes or makes any false statement or report is guilty of a felony and upon conviction thereof shall be imprisoned in the state prison for a term of not less than 1 or more than 10 years or be fined an amount not to exceed \$50,000, or both.

History: En. Sec. 67, Ch. 89, L. 1927; re-en. Sec. 6014.71, R.C.M. 1935; amd. Sec. 15, Ch. 71, L. 1977; R.C.M. 1947, 5-707; amd. Sec. 7, Ch. 198, L. 1981.

32-1-301. Organization and incorporation -- articles of incorporation. (1) A person desiring to organize a banking corporation shall make and file articles of incorporation with the department and, upon approval by the department, may file the articles with the secretary of state as provided in Title 35, chapter 1. The articles of incorporation must set forth:

- (a) the information required by [35-1-216](#)(1);
- (b) the name of the city or town and county in which the principal office of the corporation is to be located;
- (c) the names and places of residence of the initial shareholders and the number of shares subscribed by each;
- (d) the number of the board of directors and the names of those agreed upon for the first year; and
- (e) the purpose for which the banking corporation is formed, which may be set forth by the use of the general terms defined in this chapter, with reference to each line of business in which the proposed corporation desires to engage.

(2) In addition to provisions required in subsection (1), the articles of incorporation may also contain provisions set forth in [35-1-216](#)(2).

(3) A banking corporation may not adopt or use the name of any other banking corporation or association, and the corporation name must comply with [35-1-308](#)(2) through (4).

(4) A banking corporation may not be organized or incorporated until the articles of incorporation have been submitted to and have been approved by the department and until it has obtained a certificate from the board authorizing the proposed corporation to transact the business specified in the articles of incorporation within this state.

(5) A banking corporation may not amend or restate its articles of incorporation until its articles of amendment or articles of restatement have been submitted to and have been approved by the department and until it has obtained approval from the department authorizing the proposed amendment or restatement.

(6) For banks organized before October 1, 1993, articles of agreement are considered articles of incorporation.

History: Ap. p. Sec. 6, Ch. 89, L. 1927; re-en. Sec. 6014.10, R.C.M. 1935; amd. Sec. 1, Ch. 7, L. 1965; Sec. 5-201, R.C.M. 1947; Ap. p. Sec. 2661, C. Civ. Proc. 1895; re-en. Sec. 7361, Rev. C. 1907; amd. Sec. 1, Ch. 39, L. 1921; re-en. Sec. 9964, R.C.M. 1921; re-en. Sec. 9964, R.C.M. 1935; amd. Sec. 21, Ch. 240, L. 1971; amd. Sec. 33, Ch. 94, L. 1973; amd. Sec. 59, Ch. 535, L. 1975; Sec. , R.C.M. 1947; R.C.M. 1947, 5-201, (part); amd. Sec. 1, Ch. 179, L. 1985; amd. Sec. 1, Ch. 278, L. 1989; amd. Sec. 14, Ch. 395, L. 1993; amd. Sec. 77, Ch. 382, L. 1997; amd. Sec. 13, Ch. 163, L. 2005.

32-1-302. Incorporation. (1) The proposed articles of incorporation must be presented to the department, together with an application in writing in the form prescribed by the department, for a certificate authorizing the proposed corporation to transact the business specified in the articles of incorporation within this state.

(2) Upon the presentation of the proposed articles of incorporation, together with the application, the department shall ascertain whether the requisite capital of the bank, as required in [32-1-307](#), has been subscribed and been paid up in cash. The department shall also determine whether the corporation is being formed for any other purpose than the legitimate business contemplated by this chapter. The department shall determine whether the corporate name assumed by the bank, by reason of the use of any one or more of the words "commercial", "trust", "savings", or "investment" in conjunction with any other word or words, resembles so closely the name of any other bank previously formed under this chapter as to be likely to cause confusion.

(3) The expenses of the department and the board incurred in the examinations and hearings provided for in this chapter for the formation of new banks must be paid by the proposed bank through advance payment of a reasonable nonrefundable application fee which must be determined by the board by rule.

(4) All information gathered by the department under this section must be transmitted to the board for its use in conducting hearings on applications for certificates of authorization.

History: En. as part of Sec. 6, Ch. 89, L. 1927; re-en. Sec. 6014.10, R.C.M. 1935; amd. Sec. 2, Ch. 431, L. 1975; R.C.M. 1947, 5-202; amd. Sec. 1, Ch. 79, L. 1979; amd. Sec. 15, Ch. 395, L. 1993.

32-1-303. Board to refuse or approve application. The board may refuse or approve an application for a certificate of authorization in accordance with [32-1-202](#) through [32-1-206](#).

History: En. 5-202.1 by Sec. 3, Ch. 431, L. 1975; amd. Sec. 2, Ch. 71, L. 1977; R.C.M. 1947, 5-202.1.

32-1-304. Repealed. Sec. 2, Ch. 79, L. 1979.

History: En. Sec. 7, Ch. 89, L. 1927; re-en. Sec. 6014.11, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-205.

32-1-305. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. as part of Sec. 6, Ch. 89, L. 1927; re-en. Sec. 6014.10, R.C.M. 1935; amd. Sec. 4, Ch. 431, L. 1975; R.C.M. 1947, 5-203.

32-1-306. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. as part of Sec. 6, Ch. 89, L. 1927; re-en. Sec. 6014.10, R.C.M. 1935; R.C.M. 1947, 5-204.

32-1-307. Amount of capital. The division, in consultation with the board, shall determine the appropriate level of capitalization of the proposed corporation prior to the issuance of the certificate of authorization.

History: En. Sec. 8, Ch. 89, L. 1927; amd. Sec. 1, Ch. 81, L. 1935; re-en. Sec. 6014.12, R.C.M. 1935; amd. Sec. 1, Ch. 45, L. 1963; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-206; amd. Sec. 16, Ch. 395, L. 1993.

32-1-308. Bylaws. The bylaws must be certified by a majority of the directors and the secretary of the corporation and recorded in the book of bylaws. The book must be open to public inspection during office hours. A copy of the bylaws must also be transmitted to the department.

History: En. Sec. 13, Ch. 89, L. 1927; re-en. Sec. 6014.17, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-211; amd. Sec. 17, Ch. 395, L. 1993.

32-1-309 through 32-1-320 reserved.

32-1-321. Calling of first meeting -- cancellation of certificate. When the formation of the corporation is completed under the provisions of this chapter by the issuance of the certificate of incorporation by the secretary of state, any three such incorporators signing the articles of agreement may call the first meeting of the corporation at such time and place as they may appoint by giving notice thereof by publication in some newspaper of general circulation in the county in which the principal office for the transaction of business is to be located at least 5 days before the time appointed for such meeting. If all the subscribers to the capital stock unite in a call for such meeting, in writing, no

notice is necessary. If the first meeting be not called within 30 days from the date of the certificate of incorporation or if such corporation shall fail to commence the business for which it is incorporated within 90 days from the date of the issuance of the certificate of authorization, the department is authorized to cancel such certificate of authorization.

History: En. Sec. 9, Ch. 89, L. 1927; re-en. Sec. 6014.13, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-207.

32-1-322. Board of directors -- qualifications, tenure, and vacancies.

(1) The affairs of the bank must be managed by a board of directors consisting of not less than three persons. At least two-thirds of the board must be residents of Montana. Directors need not be shareholders of the corporation unless required by the articles of incorporation or bylaws. A person who has been convicted of a crime against the banking laws of the United States or of any state may not be elected a director.

(2) The directors must be elected for a term of 1 year at the annual meeting of the stockholders. The annual meeting must be held before April 15 of each calendar year. If the election is not held on the day fixed for the annual meeting, the corporation is not dissolved, but an election may be held at any other time agreeable to the bylaws of the corporation, and the persons elected shall hold their office until successors are elected and qualified. Every director shall take and subscribe an oath that the director will diligently and honestly perform the director's duty in the office and that the director will not knowingly violate or permit a violation of any of the provisions of this chapter. The oaths must be made in duplicate; one copy must be transmitted to and filed with the department, and one copy must be kept on file in the office of the bank.

History: En. Sec. 10, Ch. 89, L. 1927; re-en. Sec. 6014.14, R.C.M. 1935; amd. Sec. 1, Ch. 78, L. 1957; amd. Sec. 5, Ch. 431, L. 1975; R.C.M. 1947, 5-208; amd. Sec. 1, Ch. 84, L. 1979; amd. Sec. 1, Ch. 341, L. 1981; amd. Sec. 1, Ch. 561, L. 1983; amd. Sec. 2, Ch. 179, L. 1985; amd. Sec. 1, Ch. 24, L. 1989; amd. Sec. 18, Ch. 395, L. 1993.

32-1-323. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 23, Ch. 89, L. 1927; re-en. Sec. 6014.27, R.C.M. 1935; R.C.M. 1947, 5-502.

32-1-324. Repealed. Sec. 3, Ch. 24, L. 1989.

History: En. Sec. 11, Ch. 89, L. 1927; re-en. Sec. 6014.15, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-209; amd. Sec. 3, Ch. 179, L. 1985.

32-1-325. Selection of officers and employees -- minutes of meetings. (1) The board of directors of a bank must hold a meeting at least quarterly.

(2) The board of directors may elect a president, one or more vice-presidents, a cashier and one or more assistant cashiers, and other officers and employees that they may from time to time consider to be to the best interest of the bank and fix their compensation. The president must be chosen from the board of directors.

(3) The board of directors shall keep a correct report of the meetings of the board and of the stockholders in a book kept for that purpose. The minutes must disclose the dates of the meetings and the names of the directors or stockholders present. This record of the meetings of the board of directors must be subscribed to by the presiding officer and the person responsible for preparing the minutes. The minutes must be read and approved at the following meeting of the board of directors, and the minutes of the following meeting must show that fact. The minute book must be kept in the main office of the bank at all times and must be presented to the department at the time of its examination of the books. The department shall include in its report of examination of the bank a statement of the dates on which the meetings were held since the last examination of the bank and the names of the directors in attendance at each of those meetings. A person who makes a false entry in the book or who changes or alters an entry made in it is guilty of a misdemeanor.

History: En. Sec. 12, Ch. 89, L. 1927; re-en. Sec. 6014.16, R.C.M. 1935; amd. Sec. 6, Ch. 431, L. 1975; R.C.M. 1947, 5-210; amd. Sec. 1, Ch. 264, L. 1983; amd. Sec. 4, Ch. 179, L. 1985; amd. Sec. 19, Ch. 395, L. 1993.

32-1-326 through 32-1-330 reserved.

32-1-331. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 33, Ch. 89, L. 1927; re-en. Sec. 6014.37, R.C.M. 1935; R.C.M. 1947, 5-512.

32-1-332. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 22, Ch. 89, L. 1927; re-en. Sec. 6014.26, R.C.M. 1935; R.C.M. 1947, 5-501.

32-1-333. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. as part of Sec. 21, Ch. 89, L. 1927; amd. Sec. 1, Ch. 110, L. 1935; re-en. Sec. 6014.25, R.C.M. 1935; R.C.M. 1947, 5-401.

32-1-334. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 42, Ch. 89, L. 1927; re-en. Sec. 6014.46, R.C.M. 1935; R.C.M. 1947, 5-521.

32-1-335. Purchase or loan of own capital stock prohibited --

exception. A bank may not purchase or invest its capital or surplus or money of its depositors, or any part of either, in shares of its own capital stock or loan its capital or surplus or the money of its depositors, or any part of either, on shares of its own capital stock unless the purchase or loan is necessary to prevent loss to the bank on debts previously contracted in good faith. However, a bank may redeem or otherwise purchase its own capital stock with the prior approval of the department and subject to any conditions that the department may require.

History: En. Sec. 36, Ch. 89, L. 1927; re-en. Sec. 6014.40, R.C.M. 1935; R.C.M. 1947, 5-515; amd. Sec. 2, Ch. 36, L. 2001; amd. Sec. 1, Ch. 105, L. 2003.

32-1-336. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 1, Ch. 15, Ex. L. 1933; re-en. Sec. 6016.1, R.C.M. 1935; R.C.M. 1947, 5-1127.

32-1-337. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 2, Ch. 15, Ex. L. 1933; re-en. Sec. 6016.2, R.C.M. 1935; R.C.M. 1947, 5-1128.

32-1-338. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 3, Ch. 15, Ex. L. 1933; re-en. Sec. 6016.3, R.C.M. 1935; amd. Sec. 63, Ch. 431, L. 1975; R.C.M. 1947, 5-1129.

32-1-339. Right of examination by stockholder. A stockholder of a bank incorporated under the laws of this state who is not a director may not inspect the books and records of the bank showing its transactions with a customer. A stockholder may inspect the books and records of the bank as provided in Title 35, chapter 1, part 11.

History: En. Sec. 108, Ch. 89, L. 1927; re-en. Sec. 6014.119, R.C.M. 1935; R.C.M. 1947, 5-1035; amd. Sec. 20, Ch. 395, L. 1993.

32-1-340. Conversion of surplus and undivided profits to capital stock. (1) A bank having a surplus and undivided profits equal to or in excess of 50% of its capital stock may increase its capital stock by the issuance of new stock for a part of that surplus and undivided profits.

(2) The increase may be made by a vote of the stock, either at a regular annual stockholders' meeting or at a meeting called for that purpose in accordance with the bylaws of the corporation.

(3) All increases of capital stock made under this section must be accomplished in a manner conforming to the requirements of this chapter pertaining to surplus of banks when first incorporated.

(4) When a bank has voted to issue any stock as contemplated in this section, it shall certify that action to the department, which shall within 30 days approve or reject the plan. Departmental action is final, and written notice of the action must be given to the bank.

History: En. Sec. 97, Ch. 89, L. 1927; re-en. Sec. 6014.108, R.C.M. 1935; amd. Sec. 36, Ch. 431, L. 1975; R.C.M. 1947, 5-1024; amd. Sec. 21, Ch. 395, L. 1993

32-1-341 through 32-1-350 reserved.

32-1-351. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 14, Ch. 89, L. 1927; re-en. Sec. 6014.18, R.C.M. 1935; R.C.M. 1947, 5-212.

32-1-352. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 15, Ch. 89, L. 1927; re-en. Sec. 6014.19, R.C.M. 1935; R.C.M. 1947, 5-213.

32-1-353. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 16, Ch. 89, L. 1927; re-en. Sec. 6014.20, R.C.M. 1935; amd. Sec. 7, Ch. 431, L. 1975; R.C.M. 1947, 5-214.

32-1-354. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 17, Ch. 89, L. 1927; re-en. Sec. 6014.21, R.C.M. 1935; R.C.M. 1947, 5-215.

32-1-355. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 18, Ch. 89, L. 1927; re-en. Sec. 6014.22, R.C.M. 1935; amd. Sec. 8, Ch. 431, L. 1975; R.C.M. 1947, 5-216.

32-1-356. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 19, Ch. 89, L. 1927; amd. Sec. 1, Ch. 145, L. 1931; re-en. Sec. 6014.23, R.C.M. 1935; amd. Sec. 1, Ch. 131, L. 1937; amd. Sec. 2, Ch. 7, L. 1965; amd. Sec. 9, Ch. 431, L. 1975; R.C.M. 1947, 5-217; amd. Sec. 5, Ch. 179, L. 1985.

32-1-357 through 32-1-360 reserved.

32-1-361. Change from state to national bank. (1) A bank may become a corporation for the purpose of carrying on the business of banking in this state, under the act of congress "to provide a national currency secured by a pledge of United States bonds and to provide for the circulation and redemption thereof", approved June 3, 1864, and under Title 52 of the Revised Statutes of the United States, when:

(a) stockholders owning two-thirds of the stock of the bank vote to become a national bank corporation or execute a written consent authorizing its directors to make the certificate required therefor by the laws of the United States; or

(b) a majority of the directors of the bank, authorized in their discretion to make the change, by a vote of the majority decide to become a national bank corporation.

(2) The cashier of the bank shall:

(a) publish notice of the change once a week for 4 consecutive weeks in the newspaper that the directors select;

(b) send a printed notice by mail or otherwise to all nonvoting or dissenting stockholders; and

(c) notify the department that the bank has decided to become a corporation under the laws of the United States.

History: En. Sec. 75, Ch. 89, L. 1927; re-en. Sec. 6014.86, R.C.M. 1935; amd. Sec. 32, Ch. 431, L. 1975; amd. Sec. 17, Ch. 71, L. 1977; R.C.M. 1947, 5-1002; amd. Sec. 22, Ch. 395, L. 1993.

32-1-362. National bank powers extended to state banks. (1) A bank organized under the laws of this state may engage in any activity or business in which the bank could engage if it were operating as a national bank if the power or activity is not expressly prohibited or limited by the laws of this state and:

(a) if the power or activity is clearly authorized to national banks by federal statute, regulations, or interpretive ruling issued or adopted by a federal banking regulator having jurisdiction over national banks; and

(b) upon application to and approval by the department.

(2) The department may adopt rules to govern the application procedure under this section. The department shall act upon an application under this section within 15 days of receipt of the application. The department may, for good cause, extend the time period for processing an application under this section for an additional 15 days. If the department fails to act on the application

within 15 days of receipt of the application and does not extend the time period for good cause, the bank may engage in the activity requested without the approval of the department.

History: En. Sec. 1, Ch. 119, L. 1973; R.C.M. 1947, 5-1002.1; amd. Sec. 1, Ch. 163, L. 1981; amd. Sec. 8, Ch. 117, L. 1997; amd. Sec. 3, Ch. 100, L. 1999; amd. Sec. 3, Ch. 36, L. 2001.

32-1-363. Surrender of charter by state bank. (1) Any bank which will become a corporation for carrying on the business of banking under the laws of the United States shall cease to be a corporation under the laws of this state, except that for the term of 3 years thereafter its corporate existence shall be deemed to continue for the purposes of prosecuting and defending suits by and against it and of enabling it to close its concerns and to dispose of and convey its property.

(2) The members of the board of directors last in office, when such corporation shall have become a corporation under the laws of the United States, shall continue to be the board of directors of the corporation, with power to take all necessary measures to carry out and perfect such organization by signing the articles of association and the organization certificate and adopting such regulations as may be just and proper and not inconsistent with the acts of congress in relation thereto.

(3) Such change from a state to a national bank corporation shall not release any such bank from its obligations to pay and discharge all the liabilities created by law or incurred by it before becoming a national bank corporation or any tax imposed by the laws of this state up to the date of its becoming such national bank corporation, in proportion to the time which has elapsed since the next preceding payment thereof.

History: En. Sec. 76, Ch. 89, L. 1927; re-en. Sec. 6014.87, R.C.M. 1935; R.C.M. 1947, 5-1003.

32-1-364. Increase or reduction of capital stock. The directors of such new corporation may reduce the capital stock of the bank to its par value by dividing the surplus among its stockholders or may retain such portion of such surplus as they may deem necessary. In case of an increase of the capital stock under the provisions of the acts of congress, the directors may charge the shares of such increased capital stock with a like amount to place the whole of such capital stock on an equality and may award such new stock, or such proportion or fractional parts thereof, to such persons as they shall determine are entitled thereto and as are provided in their articles of association and the acts of congress. New directors may be chosen at such time and in the manner provided in the articles of association and the acts of congress.

History: En. Sec. 77, Ch. 89, L. 1927; re-en. Sec. 6014.88, R.C.M. 1935; R.C.M. 1947, 5-1004.

32-1-365. Certificate of change to national bank. (1) When any such bank has decided to become a corporation under the laws of the United States, the directors shall immediately thereafter execute and transmit to the comptroller of the currency the proper certificate and other instruments for its conversion into a national bank corporation under the laws of the United States.

(2) When any such bank shall have become authorized to commence the business of banking under the laws of the United States, all the property of such bank shall immediately, by act of law and without any conveyance or transfer, be vested in and become the property of the national bank corporation into which such bank shall have been converted.

History: En. Sec. 78, Ch. 89, L. 1927; re-en. Sec. 6014.89, R.C.M. 1935; R.C.M. 1947, 5-1005.

32-1-366 through 32-1-369 reserved.

32-1-370. Interstate merger of banks -- interstate agreements. (1) A bank located in this state that has been in existence at least 5 years is authorized to enter into a merger transaction with a bank not located in this state. Prior approval of the department is required if the resulting bank in a merger transaction authorized by this section is a bank organized under the laws of this state.

(2) With respect to interstate banking authorized in subsection (1), the department may enter into agreements with other states establishing the division of supervisory responsibilities between the state in which a bank is organized and the state or states in which branch banks may be located.

History: En. Sec. 16, Ch. 117, L. 1997; amd. Sec. 2, Ch. 105, L. 2003.

32-1-371. Consolidation or merger of banks. (1) (a) Any two or more banks doing business in this state may, with the approval of the department in the case of a resulting state bank, consolidate or merge into one bank, on terms and conditions lawfully agreed upon by a majority of the board of directors of each bank proposing to consolidate or merge. Except as otherwise expressly provided in this chapter, the consolidation or merger of a state bank is governed by Title 35, chapter 1.

(b) A bank organized under the laws of this state may, with the approval of the department in the case of a resulting bank, consolidate or merge with a savings association located in this state and may, upon the consolidation or

merger, maintain the branch banks and other offices previously maintained by both the bank and the savings association.

(2) Upon consolidation or merger, the corporate franchise, the corporate life, being, and existence, and the corporate rights, powers, duties, privileges, franchises, and obligations, including the rights, powers, duties, privileges, and obligations as trustee, executor, administrator, and guardian and every right, power, duty, privilege, and obligation as fiduciary, together with title to every species of property, real, personal, and mixed, of the consolidating or merging banks, are, without the necessity of any instrument of transfer, consolidated or merged and continued in and held, enjoyed, and assumed by the resulting bank. The resulting bank has the right equal with any other applicant to appointment by the courts to the offices of executor, administrator, guardian, or trustee under any will or other instrument made prior to the consolidation or merger and by which will or instrument the consolidating or merging bank was nominated by the maker to the office.

(3) Upon consolidation or merger, the resulting bank shall designate and operate one of the prior main banking houses of the consolidating or merging banks as its main banking house and the bank may maintain and continue to operate the main banking houses of each of the other consolidating or merging banks as a branch bank.

(4) (a) Upon consolidation or merger, the resulting bank may:

(i) maintain the branch banks and other offices previously maintained by the consolidating or merging banks; and

(ii) establish, acquire, or operate additional branch banks at any location where any bank involved in the consolidation or merger could have established, acquired, or operated a branch bank under applicable federal or state law if that bank had not been a party to the consolidation or merger.

(b) A resulting bank that intends to establish, acquire, or operate a branch bank pursuant to subsection (4)(a) that is organized under the laws of this state must receive prior approval from the department as provided for in [32-1-372](#), whether or not the branch bank is to be located within or outside this state.

(c) A resulting bank organized under federal law or the laws of another state shall provide the department with copies of all applications or notices filed with any federal or other state regulatory agency seeking to establish, acquire, or operate a branch bank pursuant to subsection (4)(a) within this state. The copies must be filed with the department within 5 days of their filing with the federal or other state agency.

(5) Upon consolidation or merger, the resulting bank, including all depository institutions that are affiliates of the resulting bank, may not directly or indirectly control more than 22% of the total amount of deposits of insured depository institutions and credit unions located in this state.

History: En. Sec. 94, Ch. 89, L. 1927; amd. Sec. 1, Ch. 108, L. 1931; re-en. Sec. 6014.105, R.C.M. 1935; amd. Sec. 171, Ch. 431, L. 1975; amd. Sec. 19, Ch.

71, L. 1977; R.C.M. 1947, 5-1021; amd. Sec. 4, Ch. 322, L. 1989; amd. Sec. 4, Ch. 265, L. 1995; amd. Sec. 9, Ch. 117, L. 1997; amd. Sec. 1, Ch. 15, L. 2005.

32-1-372. Branch bank. (1) A bank may establish and maintain branch banks, as provided in [32-1-371](#) and this section. The formation and operation of a branch bank, wherever located, by a bank organized under the laws of this state require the prior approval of the department. A bank organized under the laws of this state may establish, acquire, or operate a branch bank or other office outside this state if approved by the department and if permitted by the laws of the jurisdiction where the branch bank or office is to be located.

(2) A branch bank may but is not required to offer all services and conduct all business authorized to be offered or conducted by the bank.

(3) A bank authorized to do banking business in this state may use a satellite terminal, as defined in [32-6-103](#), at any location permitted by the Montana Electronic Funds Transfer Act.

(4) A bank may continue to maintain and operate all branch banks and other banking offices, including detached facilities, that are in existence or authorized on July 1, 1997, without further consent, authorization, or approval of the department or the board. All offices established and maintained by a bank, other than the main banking house, at which deposits are received, checks are paid, or money is lent must be considered branch banks for all purposes under this title.

(5) A bank located in this state may provide services for other banks located in this state, whether or not those banks are affiliates.

(6) A bank may establish and maintain branch banks, as provided in [32-1-371](#) and this section. However, this section may not be interpreted to authorize de novo interstate bank branching and may not be interpreted to authorize a bank not located in this state to establish, acquire, or operate a branch bank in this state.

History: En. Sec. 101, Ch. 89, L. 1927; re-en. Sec. 6014.112, R.C.M. 1935; amd. Sec. 1, Ch. 39, L. 1963; amd. Sec. 1, Ch. 80, L. 1965; amd. Sec. 170, Ch. 431, L. 1975; amd. Sec. 22, Ch. 503, L. 1977; R.C.M. 1947, 5-1028; amd. Sec. 5, Ch. 322, L. 1989; amd. Sec. 1, Ch. 15, L. 1991; amd. Sec. 5, Ch. 401, L. 1993; amd. Sec. 1, Ch. 307, L. 1995; amd. Sec. 10, Ch. 117, L. 1997; amd. Sec. 4, Ch. 36, L. 2001; amd. Sec. 2, Ch. 15, L. 2005.

32-1-373. Banks may join federal reserve bank. Any bank is hereby authorized and empowered to join or associate itself with the federal reserve bank, or any branch thereof, and nothing herein contained shall prevent or prohibit any bank from joining or associating itself with any such banks or branch thereof or from investing any part of its capital or surplus in the stock of such bank, in accordance with the terms and provisions of the act of congress creating such association. Any bank joining or associating itself with such bank shall be permitted to conform to and transact its business in accordance with the terms

and provisions of the act of congress creating the same and the rules of such federal reserve bank.

History: En. Sec. 28, Ch. 89, L. 1927; re-en. Sec. 6014.32, R.C.M. 1935; R.C.M. 1947, 5-507.

32-1-374. Reorganization of national bank as state bank. (1) A national bank that is authorized to dissolve and that has taken the necessary steps to effect dissolution may reorganize as a state bank upon the consent in writing of the owners of two-thirds of the capital stock of the bank and with the approval of the department. The stockholders shall make, execute, and acknowledge articles of incorporation as required by the laws of the state of Montana and shall set forth in the articles of incorporation the written consent of the stockholders. Upon the filing of the articles as provided by law and upon the approval of the department, the bank is reorganized under this chapter, and all assets, real and personal, of the dissolved national bank are vested in and become the property of the reorganized state bank, subject to all liabilities of the national bank not liquidated before the reorganization.

(2) The cashier of the bank shall:

(a) publish notice of the change once a week for 4 consecutive weeks in the newspaper that the directors select;

(b) send a printed notice by mail or otherwise to all nonvoting or dissenting stockholders; and

(c) notify the department that the bank has decided to become a corporation under the laws of Montana.

History: En. Sec. 79, Ch. 89, L. 1927; re-en. Sec. 6014.90, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-1006; amd. Sec. 23, Ch. 395, L. 1993.

32-1-375. Prohibition of acquisition -- exception. (1) Notwithstanding any other provision of law, a bank holding company or any other company may not acquire or control an institution in this state that is an "insured bank" as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or any institution eligible to become an insured bank as defined therein if the institution does not both accept demand deposits and engage in the business of making commercial loans.

(2) Nothing in this section prohibits the continued control of a financial institution eligible for insurance under the Federal Deposit Insurance Act by a company that acquired the financial institution prior to March 1, 1987.

History: En. Sec. 1, Ch. 491, L. 1987.

32-1-376. Sale of branch bank. A bank located and doing business in this state may, with the approval of the department in the case of a state bank, buy from any other bank also located and doing business in this state all or substantially all of the business, assets, and liabilities of the selling bank's branch bank or branch banks. Upon completion of the sale, the purchasing bank may operate a branch bank at the selling bank's former branch bank location.

History: En. Sec. 8, Ch. 265, L. 1995; amd. Sec. 11, Ch. 117, L. 1997.

32-1-377. Agreement of purchase and sale. (1) The selling and purchasing banks shall enter into an agreement that must contain all the terms and conditions of the sale and that must contain:

(a) proper provision for the assumption, payment, transfer, or retention of all the liabilities of the selling bank as to the branch assets and business sold;

(b) proper provision for the assumption, payment, transfer, or retention of the purchasing bank of all fiduciary obligations of the branch or branch business sold.

(2) The agreement for purchase and sale of a state bank must be authorized and approved by the department. The agreement of purchase and sale of a national bank must be in accordance with the laws applicable to national banks.

History: En. Sec. 9, Ch. 265, L. 1995; amd. Sec. 12, Ch. 117, L. 1997.

32-1-378 through 32-1-380 reserved.

32-1-381. Purpose. (1) The purpose of [32-1-381](#) through [32-1-384](#) is to:

(a) authorize interstate banking by the acquisition of existing banks within the framework of the "Douglas amendment" to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 through 1850), as amended;

(b) provide a variety of banking alternatives in Montana in terms of the numbers and ownership of banks; and

(c) conform Montana statutes with the provision of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Public Law 103-328, 108 Stat. 2338, effective September 29, 1994. Any inconsistencies between the provisions of [32-1-381](#) through [32-1-384](#) and Public Law 103-328 must be resolved in favor of Public Law 103-328.

(2) Sections [32-1-381](#) through [32-1-384](#) do not authorize the establishment of a branch bank in Montana by a bank not located in Montana. Sections [32-1-371](#) and [32-1-375](#) do not apply to acquisitions or transactions authorized in [32-1-381](#) through [32-1-384](#).

History: En. Sec. 1, Ch. 401, L. 1993; amd. Sec. 5, Ch. 265, L. 1995; amd. Sec. 137, Ch. 42, L. 1997.

32-1-382. Definitions. As used in [32-1-381](#) through [32-1-384](#), unless the context requires otherwise, the following definitions apply:

- (1) "Acquire" means:
 - (a) the direct or indirect purchase or exchange of stock;
 - (b) the direct or indirect purchase of assets and liabilities; or
 - (c) a merger.
- (2) "Bank" means a commercial bank, as defined in [32-1-105](#), or a national banking association as designated by 12 U.S.C. 24.
- (3) "Bank holding company" means a bank holding company or a financial holding company that is registered under the Bank Holding Company Act of 1956, as amended, regardless of where it is located or has its headquarters.
- (4) "Control" means:
 - (a) ownership of, authority over, or power to vote, directly or indirectly, 25% or more of any class of voting security;
 - (b) authority in any manner over the election of a majority of directors; or
 - (c) power to exercise, directly or indirectly, a controlling influence over management and policies.
- (5) "Department" means the department of administration provided for in [2-15-1001](#).
- (6) "Financial institution" means a bank or bank holding company.
- (7) "Headquarters" means the state in which the activities of a bank holding company or a company controlling the bank holding company are "principally conducted" within the meaning of the Bank Holding Company Act of 1956, as amended.
- (8) "Located in this state" means:
 - (a) in the case of a bank, that the organizational certificate identifies an address in this state as the principal place of conducting its business; and
 - (b) in the case of a bank holding company, an entity, partnership, or trust organized under the laws of this state.

History: En. Sec. 2, Ch. 401, L. 1993; amd. Sec. 6, Ch. 265, L. 1995; amd. Sec. 5, Ch. 36, L. 2001; amd. Sec. 78, Ch. 483, L. 2001.

32-1-383. Acquisition of financial institution by bank holding company not located in this state -- limitations. (1) A bank holding company with headquarters in another state may acquire control of a bank located in this state through acquisition of a financial institution if the bank holding company complies with [32-1-381](#) through [32-1-384](#). The bank to be acquired must:

- (a) have been conducting business for a continuous period of at least 5 years prior to the effective date of the acquisition; or

(b) be a shell bank organized solely for the purpose of purchasing the assets of a bank that has conducted business for a continuous period of at least 5 years prior to the acquisition.

(2) A bank holding company may acquire control of a bank located in this state by purchase of stock in or by merger with a bank holding company.

(3) A bank, a bank holding company, or a subsidiary of the bank or bank holding company may not acquire control of a bank located in this state if the bank, bank holding company, or subsidiary together with its affiliates would directly or indirectly control more than 22% of the total amount of deposits of insured depository institutions and credit unions located in this state.

(4) The determination of the limit contained in subsection (3) must be based upon public reports filed with the appropriate regulatory agency as of the December 31 preceding the submission to the appropriate federal banking regulatory agency of the application seeking prior approval of the acquisition of control of the bank.

History: En. Sec. 3, Ch. 401, L. 1993; amd. Sec. 7, Ch. 265, L. 1995; amd. Sec. 13, Ch. 117, L. 1997.

32-1-384. Federal applications -- comments. (1) A bank holding company shall file with the department a copy of applications submitted to a federal banking regulatory agency seeking prior approval of the proposed acquisition of a financial institution located in this state. The bank holding company shall also file a statement verifying that the acquisition will not result in a violation of the limit in [32-1-383](#)(3).

(2) The applications and statement are public records, and the department shall allow public inspection of all nonconfidential portions of the applications and statements. The department shall solicit public comment on the applications by promptly publishing notice of the applications in a newspaper of general circulation in the county in which the financial institution to be acquired is located. The department shall send the comments to the appropriate federal banking regulatory agency. The department may intervene in or take other action in a federal banking regulatory authority proceeding.

History: En. Sec. 4, Ch. 401, L. 1993; amd. Sec. 14, Ch. 117, L. 1997.

32-1-401. Bank advertising before issuance of charter. It shall be unlawful for any individual, firm, or corporation to advertise, publish, or otherwise promulgate that it is engaged in the banking business without first having obtained authority from the department, as herein provided. Any such individual or member of such firm or officer of any such corporation so offending shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided by the laws of this state.

History: En. Sec. 107, Ch. 89, L. 1927; re-en. Sec. 6014.118, R.C.M. 1935; R.C.M. 1947, 5-1034.

32-1-402. When advertising as bank prohibited -- trade names restricted. (1) Except as provided in subsection (4), a person, firm, company, partnership, or corporation, either domestic or foreign, that is not subject to the supervision of the department and not required by the provisions of this chapter to report to it and that has not received a certificate to do a banking business from the department, may not:

(a) except for a student financial institution, as defined in [32-1-115](#), advertise that the person or entity is receiving or accepting money or savings for deposit, investment, or otherwise and issuing notices or certificates of deposit; or

(b) use an office sign at the place where the business is transacted having on it an artificial or corporate name or other words indicating that:

(i) the place or office is the place or office of a bank or trust company;

(ii) deposits are received there or payments made on checks; or

(iii) any other form of banking business is transacted there.

(2) The person, firm, company, partnership, or corporation, domestic or foreign, may not use or circulate letterheads, billheads, blank notes, blank receipts, certificates, circulars, or any written or printed or partly written and partly printed papers that contain an artificial or corporate name or other word or words indicating that the business is the business of a bank, savings bank, or trust or investment company.

(3) The person, firm, company, partnership, or corporation or any agent of a foreign corporation not having an established place of business in the state may not solicit or receive deposits or transact business in the way or manner of a bank, savings bank, trust, or investment company or in a manner that leads the public to believe that its business is that of a bank, savings bank, trust, or investment company.

(4) (a) A person, firm, company, partnership, or corporation, domestic or foreign, except for a student financial institution, as defined in [32-1-115](#), that is not subject to the supervision of the department and not required by the provisions of this chapter to report to it and that has not received from the department a certificate to do a banking business may not transact business under a name or title that contains the word "bank", "banker", "banking", "savings bank", "saving", "trust company", or "investment company" unless the department has granted a waiver. This section does not prohibit the use of the word "bank" in the name or title of any bank holding company registered with the board of governors of the federal reserve system pursuant to 12 U.S.C. 1844.

(b) The department may grant a waiver to allow the use of a restricted word listed in subsection (4)(a) to a nonprofit organization if:

(i) the organization is not acting as a financial institution; and

(ii) the name used is not likely to mislead a reasonable individual into thinking that the organization is acting as a financial institution.

(5) A person, firm, company, partnership, or corporation, domestic or foreign, violating a provision of this section shall forfeit to the state \$100 a day for every day or part of a day during which the violation continues.

(6) Upon suit by the department, the court may issue an injunction restraining the person, firm, company, partnership, or corporation during pendency of the action and permanently from further using those words in violation of the provisions of this section or from further transacting business in a manner that leads the public to believe that its business is that of a bank, savings bank, trust, or investment company and may enter any other order or decree as equity and justice require.

History: Ap. p. Sec. 29, Ch. 89, L. 1927; re-en. Sec. 6014.33, R.C.M. 1935; amd. Sec. 14, Ch. 431, L. 1975; amd. Sec. 6, Ch. 71, L. 1977; Sec. 5-508, R.C.M. 1947; Ap. p. Sec. 1, Ch. 217, L. 1977; Sec. 5-508.1, R.C.M. 1947; R.C.M. 1947, 5-508, 5-508.1; amd. Sec. 24, Ch. 395, L. 1993; amd. Sec. 3, Ch. 105, L. 2003; amd. Sec. 4, Ch. 340, L. 2003.

32-1-403. Penalty for transacting business without certificate. (1) A person, firm, company, partnership, or corporation, domestic or foreign, advertising that he or it is receiving or accepting money or savings and issuing notes or certificates of deposit for them or advertising that he or it is transacting the business of a bank, savings bank, or trust company or making use of an office sign at the place where the business is transacted, having on it an artificial or corporate name or other words indicating that the place or office is the place or office of a bank, savings bank, or trust company or that deposits are received there or payments made on check or that interest is paid on deposits or that certificates of deposit, either with or without interest, are being issued or that any other form of banking business is transacted, and a person, firm, company, partnership, or corporation, domestic or foreign, using or circulating any letterheads, billheads, blank notes, blank receipts, certificates, or circulars or any written or printed or partly written and partly printed paper whatever, having on it an artificial or corporate name or advertising that the business is the business of a bank, savings bank, or trust company, must have the proper capital stock paid in and set aside for the purpose of transacting that business and must have received from the department, as provided for in this chapter, a certificate to do a banking business.

(2) A person, firm, company, partnership, or corporation, domestic or foreign, violating any provision of this section shall forfeit to the state \$100 a day for every day or part of a day during which the violation continues.

(3) Upon action brought by the department, the court may issue an injunction restraining a person, firm, company, partnership, or corporation from further violating any provision of this section and may enter a further order or decree as equity and justice require.

(4) A person, firm, company, partnership, or corporation doing any of the

things or transacting any of the business defined in this section must transact that business according to the provisions of the Bank Act, and the department may examine the accounts, books, papers, cash, and credits of that person, firm, company, partnership, or corporation, domestic or foreign, in order to ascertain whether that person, firm, company, partnership, or corporation has violated or is violating any provisions of this section.

History: En. Sec. 30, Ch. 89, L. 1927; re-en. Sec. 6014.34, R.C.M. 1935; amd. Sec. 15, Ch. 431, L. 1975; R.C.M. 1947, 5-509.

32-1-404 through 32-1-410 reserved.

32-1-411. Extent assets may be pledged. No bank, banker, or bank officer shall, except as otherwise authorized by law, pledge or hypothecate as collateral security for money borrowed its assets in a ratio exceeding 1 1/2 times the amount borrowed (except as otherwise authorized by the department).

History: En. Sec. 99, Ch. 89, L. 1927; re-en. Sec. 6014.110, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-1026.

32-1-412. Limits on excessive borrowing. The department may prevent excessive borrowing by an institution that would have a significant effect on the institution's safety and soundness. If it appears to the department that an institution's borrowing is having a significant effect on the institution's safety and soundness, the department may require the institution to reduce its borrowing within a timeframe determined by the department.

History: (1)En. Sec. 110, Ch. 89, L. 1927; re-en. Sec. 6014.121, R.C.M. 1935; amd. Sec. 37, Ch. 431, L. 1975; Sec. 5-1037, R.C.M. 1947; (2)En. Sec. 54, Ch. 89, L. 1927; re-en. Sec. 6014.58, R.C.M. 1935; amd. Sec. 19, Ch. 431, L. 1975; Sec. 5-533, R.C.M. 1947; R.C.M. 1947, 5-533, 5-1037; amd. Sec. 25, Ch. 395, L. 1993; amd. Sec. 6, Ch. 36, L. 2001; amd. Sec. 4, Ch. 105, L. 2003.

32-1-413. Borrowing money for capital purposes -- status of capital. Notwithstanding any other provision of law, any commercial bank, savings bank, trust company, or investment company, now in existence or which may be hereafter formed, shall have the power to borrow money for capital purposes upon such terms and conditions as may be approved by the department and for this purpose may issue capital notes or debentures therefor, such notes or debentures to be subordinate in right of payment to the payment in full of all deposits of such bank, savings bank, trust company, or investment company. The amount of money so borrowed shall be considered as capital for the purpose of determining the maximum amount of money that may be loaned by such

bank, savings bank, trust company, or investment company to any person, partnership, or corporation and for the purpose of determining the maximum amount of money which such bank may borrow and for all other purposes of bank capital as may be required by law.

History: En. Sec. 1, Ch. 16, Ex. L. 1933; re-en. Sec. 6017.1, R.C.M. 1935; amd. Sec. 1, Ch. 11, L. 1967; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-1130; amd. Sec. 16, Ch. 634, L. 1979.

32-1-414. No certificate of deposit to issue for borrowed money. No bank shall issue its certificate of deposit for the purpose of borrowing money or make partial payments upon any certificate of deposit.

History: En. Sec. 111, Ch. 89, L. 1927; re-en. Sec. 6014.122, R.C.M. 1935; R.C.M. 1947, 5-1038.

32-1-415 through 32-1-419 reserved.

32-1-420. Investment by trust fiduciary in management investment company or investment trust. (1) In the absence of an express prohibition in a trust instrument, a trust company fiduciary or the trust division of a financial institution, whether organized under state or federal law, may acquire and retain, invest, and reinvest fiduciary funds in the securities of or other interests in an open-end or closed-end management investment company or investment trust registered under 15 U.S.C. 80a-1 through 80a-64.

(2) The investments authorized in subsection (1) may be made even if the fiduciary or an affiliate of the fiduciary is providing services to a management investment company or investment trust and is receiving compensation as an investment adviser or manager, sponsor, broker, distributor, custodian, transfer agent, or registrar or for a similar service. The fiduciary shall disclose to all current income beneficiaries of the trust the rate, formula, and method of compensation for the services provided.

History: En. Sec. 1, Ch. 289, L. 1993.

32-1-421. Investment of capital of savings banks. (1) The term "savings bank" as used in this section means any bank organized to do the business specified in [32-1-106](#).

(2) (a) At least one-half of the paid-in capital of a savings bank and one-half of the whole amount deposited in the savings bank must be invested in bonds or other securities of the United States or any of the states of the United States or any county, city, town, or school district of this state on which interest is regularly payable or federal land bank bonds or loaned on unencumbered real

estate worth at least double the amount to be secured.

(b) The remainder may be invested in bonds or securities listed in subsection (2)(a) or in approved personal securities. However, a loan may not be made on personal securities of less than two responsible persons or collateral security to be approved by the directors, and a loan upon personal security may not be made to any person or partnership to an amount exceeding \$10,000.

(c) Investments in United States government obligations permitted under subsection (2)(a) or (2)(b) may be made either directly or in the form of securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as amended, if:

(i) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and

(ii) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian.

(3) A president, vice president, director, or other officer or servant of a savings bank may not directly or indirectly borrow any of the funds of the bank or of its deposits or in any manner use the same in his private affairs or business. A director may not receive any pay, salary, or emolument until the interest as the directors have determined to allow depositors has been provided for in accordance with the regulations of the corporation.

(4) The real estate that the corporation may lawfully purchase, hold, and convey is the real estate that is:

(a) necessary for the proper transaction of its business, not exceeding in value \$50,000;

(b) mortgaged to it in good faith for money loaned pursuant to this chapter or given as security for money loaned or advanced;

(c) purchased at the sale on judgment or decree obtained or rendered on money loaned or advanced.

(5) Savings banks organized under the provisions of this chapter may not purchase, hold, or convey real estate in any other case or for any other purpose than is specified in subsection (4) and may not buy or sell any personal property, except such as may be necessary for the proper transaction of its business or as may have been pledged, mortgaged, or assigned to it to secure money loaned or advanced.

History: En. Sec. 24, Ch. 89, L. 1927; re-en. Sec. 6014.28, R.C.M. 1935; R.C.M. 1947, 5-503; amd. Sec. 3, Ch. 137, L. 1989.

32-1-422. Restriction on investment in corporate stock -- rulemaking authority. (1) Except as provided in subsections (2) and (3), a commercial or savings bank may not purchase or invest its capital or surplus or money of its

depositors, or any part of its capital or surplus or money of its depositors, in the capital stock of any corporation unless the purchase or acquisition of capital stock is necessary to prevent loss to the bank on a debt previously contracted in good faith. Any capital stock purchased or acquired to prevent the loss must be sold by the bank within 6 months after purchase or acquisition if it can be sold for the amount of the claim of the bank against it. All capital stock purchased or acquired must be sold for the best price obtainable by the bank within 1 year after purchase or acquisition, or if the stock is unmarketable, it must be charged off as an investment loss, which is equivalent to the stock's sale. A person or corporation violating any provision of this section shall forfeit to the state twice the nominal amount of the stock.

(2) A bank may acquire and hold for its own account:

(a) up to 20% of its capital and surplus in the capital stock of a bank service corporation organized solely for the purpose of providing services to banks;

(b) shares of stock of a federal reserve bank and a federal home loan bank, without limitation of amount;

(c) shares of stock in a Montana capital company or a Montana small business investment capital company within limits prescribed by the Montana Capital Company Act; and

(d) shares of stock or financial interests in an affiliate or a subsidiary, the business activities of which are limited to those allowed by law for a bank.

(3) A bank may invest any amount up to the limit established by the department of its unimpaired capital and surplus in shares of stock of:

(a) the federal national mortgage association;

(b) the federal home loan mortgage corporation;

(c) the federal agricultural mortgage corporation; and

(d) other corporations created pursuant to acts of congress to meet the agricultural, housing, health, transit, educational, environmental, or similar needs of the nation when the department determines that the investment is in the public interest.

(4) A bank may, upon written application and approval of the department, make an investment in an amount permitted by the department by rule so long as the investment serves primarily to promote the public welfare, including the welfare of low- and moderate-income families and communities in need of jobs, housing, and public services. A bank may also, with the department's approval, purchase interests in an entity, as defined in [35-1-113\(9\)](#), that makes investments for similar public welfare purposes.

(5) The department shall adopt rules to implement this section. The rules pertaining to the investments allowed in subsection (4) may be substantially equivalent to or more stringent than the eleventh power provided for in 12 U.S.C. 24 and the policy guidelines on community development issued by the office of the comptroller of the currency.

History: En. Sec. 39, Ch. 89, L. 1927; re-en. Sec. 6014.43, R.C.M. 1935; amd. Sec. 1, Ch. 115, L. 1973; R.C.M. 1947, 5-518; amd. Sec. 1, Ch. 259, L. 1983; amd. Sec. 3, Ch. 199, L. 1989; (4) En. Sec. 6, Ch. 199, L. 1989; amd. Sec. 26, Ch. 395, L. 1993; amd. Sec. 4, Ch. 100, L. 1999; amd. Sec. 1, Ch. 410, L. 1999; amd. Sec. 7, Ch. 36, L. 2001.

32-1-423. Real estate that banks may purchase, hold, or convey. (1) (a) A bank organized under the provisions of this chapter may purchase, hold, or convey real estate that:

(i) is for its accommodation in the transaction of its business, but it may not invest an amount exceeding 100% of its paid-up capital and surplus in the lot and building in which the business of the company is or is projected to be carried on, furniture, equipment and fixtures, vaults and safety vaults, and boxes necessary or proper to carry on its banking business if property held for future use as a bank office site is held pursuant to a detailed written business plan formally adopted by the directors of the bank;

(ii) is mortgaged to it in good faith by way of security for loans previously made or money due to the bank;

(iii) is conveyed to it in satisfaction of debts previously contracted in the course of its business;

(iv) it purchases at sales under judgments, decrees, or mortgages held by the bank.

(b) The detailed written business plan required by subsection (1)(a)(i) must include information outlining the manner in which the acquired real estate will be developed for future use as a bank office site, including but not limited to the costs of projected construction, furniture, and equipment and fixtures. The plan must include sufficient information for the department to determine that the property will be used for a future bank office site.

(2) Real estate acquired in the manner set forth in subsections (1)(a)(iii) and (1)(a)(iv) may not be held longer than 5 years from the date of acquisition, unless special written permission is granted by the department. The real estate must be carried on the books of the bank for an amount not greater than its cost to the bank, including costs of foreclosure and other expenses of acquiring title.

History: En. Sec. 25, Ch. 89, L. 1927; re-en. Sec. 6014.29, R.C.M. 1935; amd. Sec. 12, Ch. 431, L. 1975; amd. Sec. 4, Ch. 71, L. 1977; R.C.M. 1947, 5-504; amd. Sec. 27, Ch. 395, L. 1993; amd. Sec. 15, Ch. 117, L. 1997; amd. Sec. 5, Ch. 105, L. 2003.

32-1-424. Investments of financial institutions. (1) Notwithstanding other provisions of the law, it is lawful for a bank, trust company, investment company or other financial institution operating under the laws of this state to invest the funds or money in its custody or possession, eligible for investment,

in:

(a) debentures issued by the federal housing administrator and in obligations of national mortgage associations; and

(b) United States government obligations, either directly or in the form of securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as amended, if:

(i) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and

(ii) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian.

(2) The department shall publish a list of the permissible type of investments in United States government obligations as provided in subsection (1).

History: (1), (2)En. Sec. 26, Ch. 89, L. 1927; re-en. Sec. 6014.30, R.C.M. 1935; Sec. 5-505, R.C.M. 1947; (3)En. Sec. 1, Ch. 5, Ex. L. 1933; amd. Sec. 1, Ch. 37, L. 1935; re-en. Sec. 5309.35, R.C.M. 1935; amd. Sec. 1, Ch. 24, L. 1937; Sec. 35-142, R.C.M. 1947; R.C.M. 1947, 5-505, 35-142(part); amd. Sec. 1, Ch. 36, L. 1979; amd. Sec. 4, Ch. 137, L. 1989; amd. Sec. 28, Ch. 395, L. 1993.

32-1-425. Definitions. For the purposes of [32-1-426](#) and [32-1-427](#), unless the context clearly indicates otherwise, the following definitions apply:

(1) "Fiduciary" means a trustee under any trust, expressed, implied, resulting in, or constructive; executor; administrator; guardian; committee; conservator; curator; tutor; custodian; nominee; receiver; trustee in bankruptcy; assignee for the benefit of creditors; partner; agent; officer of any corporation, public or private; public officer; or any other person acting in a fiduciary capacity for any person, trust, or estate.

(2) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

History: En. 5-1601 by Sec. 3, Ch. 278, L. 1977; R.C.M. 1947, 5-1601.

32-1-426. Deposit of securities in central depository. (1)

Notwithstanding any other provision of law, any fiduciary, as defined in [32-1-425](#), holding securities in its fiduciary capacity, any bank or trust company holding securities as a custodian or managing agent, and any bank or trust company holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit of the securities in a clearing corporation, as defined in

[30-8-112](#). When the securities are deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of the clearing corporation with any other securities deposited in the clearing corporation by any person regardless of the ownership of the securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of the fiduciary and the records of the bank or trust company acting as custodian, as managing agent, or a custodian for a fiduciary must at all times show the name of the party for whose account the securities are deposited. Title to the securities may be transferred by bookkeeping entry on the books of the clearing corporation without physical delivery of certificates representing the securities. A bank or trust company depositing securities pursuant to this section is subject to rules which in the case of state-chartered institutions, the state banking board and, in the case of national banking associations, the comptroller of the currency, may from time to time adopt. A bank or trust company acting as custodian for a fiduciary shall, on demand of the fiduciary, certify in writing to the fiduciary the securities deposited by the bank or trust company in the clearing corporation for the account of the fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of the fiduciary's account or on demand by the attorney for the party, certify in writing to the party the securities deposited by the fiduciary in the clearing corporation for its account as the fiduciary.

(2) This section applies to any fiduciary holding securities in its fiduciary capacity and to any bank or trust company holding securities as a custodian, managing agent, or custodian for a fiduciary regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not the fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of the clearing corporation.

History: En. 5-1602 by Sec. 4, Ch. 278, L. 1977; R.C.M. 1947, 5-1602; amd. Sec. 87, Ch. 536, L. 1997.

32-1-427. Fiduciaries -- deposit of securities with a federal reserve bank. (1) Notwithstanding any other provision of law, any bank or trust company when acting as fiduciary as defined in [32-1-425](#) and any bank or trust company when holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit with the federal reserve bank in its district of any securities the principal and interest of which the United States or any department, agency, or instrumentality thereof has agreed to pay or has guaranteed payment, to be credited to one or more accounts on the books of the federal reserve bank in the name of the bank or trust company, to be designated fiduciary or safekeeping accounts, to which accounts other similar securities may be credited. A bank or trust company so depositing securities with a federal reserve bank shall be subject to such rules with respect to the making and maintenance of such deposit as, in the case of state-chartered institutions, the

state banking board and, in the case of national banking associations, the comptroller of the currency may from time to time adopt. The records of the bank or trust company shall at all times show the ownership of the securities held in such account. Ownership of and other interests in the securities credited to such account may be transferred by entries on the books of the federal reserve bank without physical delivery of any securities. A bank or trust company acting as custodian for a fiduciary shall, on demand of the fiduciary, certify in writing to the fiduciary the securities deposited by the bank or trust company with the federal reserve bank for the account of such fiduciary. A fiduciary shall, on demand by any party to its accounting or on demand by the attorney for the party, certify in writing to the party the securities deposited by the fiduciary with the federal reserve bank for its account as such fiduciary.

(2) This section shall apply to all fiduciaries and custodians for fiduciaries acting on July 1, 1977, or who thereafter may act regardless of the date of the instrument or court order by which they are appointed.

History: En. 5-1603 by Sec. 5, Ch. 278, L. 1977; R.C.M. 1947, 5-1603.

32-1-428 reserved.

32-1-429. Insurance activities. (1) A bank or a bank's subsidiary or affiliate may:

(a) except title insurance, sell insurance of all types, including annuities, credit life insurance, and disability insurance; and

(b) act as an insurance producer, adjuster, consultant, or administrator as defined in Title 33, chapter 17.

(2) A bank or a bank's subsidiary or affiliate that engages in insurance activities authorized in subsection (1) is subject to the provisions of Title 33.

History: En. Sec. 7, Ch. 100, L. 1999.

32-1-430. Authority of state banks to make real estate loans. A bank in this state has from time to time the same authority to make loans upon real estate which may be given by acts of congress or the federal reserve system to national banks or bank members of the federal reserve system.

History: En. Sec. 27, Ch. 89, L. 1927; re-en. Sec. 6014.31, R.C.M. 1935; amd. Sec. 1, Ch. 23, L. 1941; amd. Sec. 1, Ch. 90, L. 1945; amd. Sec. 1, Ch. 25, L. 1959; amd. Sec. 13, Ch. 431, L. 1975; amd. Sec. 5, Ch. 71, L. 1977; R.C.M. 1947, 5-506(part).

32-1-431. Repealed. Sec. 50, Ch. 395, L. 1993.

History: En. Sec. 27, Ch. 89, L. 1927; re-en. Sec. 6014.31, R.C.M. 1935; amd. Sec. 1, Ch. 23, L. 1941; amd. Sec. 1, Ch. 90, L. 1945; amd. Sec. 1, Ch. 25, L. 1959; amd. Sec. 13, Ch. 431, L. 1975; amd. Sec. 5, Ch. 71, L. 1977; R.C.M. 1947, 5-506(part).

32-1-432. Limitations on loans -- rulemaking. (1) (a) The total loans or extensions of credit to a person, partnership, or corporation by a bank, including loans to a partnership and to the members of the partnership, may not exceed 20% of the amount of the unimpaired capital and surplus of that bank.

(b) The discount of bills of exchange drawn in good faith against actual existing values, the discount of bankers, acceptances of other banks, the discount of commercial or business paper actually owned by the person negotiating it and the obligations of the United States, general obligations of any state or of any political subdivision, or obligations issued under authority of the Federal Farm Loan Act may not be considered as money borrowed.

(c) The limitations imposed on total loans and extensions of credit by this section do not apply to loans and investments secured by obligations of the United States having a current market value of 100% of the amount loaned or invested.

(d) Loans or obligations are not subject under this section to any limitation based upon that unimpaired capital and surplus to the extent that they are secured or covered by guaranties, or by commitments or agreements to take over or to purchase them, made by a federal reserve bank or by the United States or a department, bureau, board, commission, or establishment of the United States, including a corporation wholly owned, directly or indirectly, by the United States.

(2) The combined liabilities of the members of a firm, partnership, or unincorporated association to the loaning bank must be included in the liabilities of the firm, partnership, or unincorporated association. The portion of the liabilities of the firm, partnership, or unincorporated association for which a member individually is legally responsible must be included in the liabilities of the member in determining the limitations imposed by this section. In determining the limitation for loans or extensions of credit to a limited partner of a limited partnership, the portions of the liabilities of the limited partnership for which the limited partner is free from liability must be excluded.

(3) When, in the judgment of the department, the liabilities of a corporation or the combined liabilities of a corporation and one or more of its stockholders to a bank are excessive, it shall require the reduction to the limits and within the time it prescribes.

(4) The limitations of this section do not apply to the extent that the loan or extension of credit is secured by pledged deposits in the lending bank.

(5) The limitations of this section do not apply to a loan of funds or an extension of credit made by a bank to another bank if the term of the loan or extension of credit does not exceed 2 business days.

(6) The limitations of this section do not apply to the extent that a loan is covered by a guaranty or by commitments or agreements to take over or purchase the loan made by an agency or board of the state of Montana authorized by law to provide the guaranties, commitments, or agreements.

(7) (a) A state-chartered bank may be exempted from the limitations of this section by applying to the department for a written waiver stipulating that the bank will be subject to the limitations imposed on national banks under 12 U.S.C. 84 and the regulations of the office of the comptroller of the currency.

(b) A written waiver provided to a state-chartered bank in accordance with subsection (7)(a) may not be changed by the bank or revoked by the department for 2 years from the date of issue or for a different period determined by the department by rule.

(8) The department may adopt rules to carry out the purposes of this section.

(9) For purposes of this section, the terms "loan" and "extension of credit" include all direct or indirect advances of funds to a person on the basis of an obligation of the person to repay the funds. The terms also include a liability of a state-chartered bank to advance funds to or on behalf of a person pursuant to a contractual commitment. The department may adopt a rule differentiating between discretionary and nondiscretionary contractual commitments.

History: En. Sec. 44, Ch. 89, L. 1927; re-en. Sec. 6014.48, R.C.M. 1935; amd. Sec. 1, Ch. 71, L. 1943; amd. Sec. 1, Ch. 6, L. 1969; amd. Sec. 1, Ch. 118, L. 1973; amd. Sec. 17, Ch. 431, L. 1975; R.C.M. 1947, 5-523; amd. Sec. 1, Ch. 258, L. 1983; amd. Sec. 1, Ch. 315, L. 1985; amd. Sec. 29, Ch. 395, L. 1993; amd. Sec. 5, Ch. 100, L. 1999.

32-1-433. Investment in certain securities -- rulemaking authority.

(1) A bank may purchase, sell, underwrite, and hold investment securities that are obligations in the form of bonds, notes, or debentures, as provided in rules adopted by the department. A bank may hold without limit investment securities that are general obligations of the United States, obligations that are guaranteed fully as to principal and interest by the United States, or general obligations of any state.

(2) The department shall adopt rules to implement this section.

History: En. Sec. 38, Ch. 89, L. 1927; re-en. Sec. 6014.42, R.C.M. 1935; amd. Sec. 7, Ch. 71, L. 1977; R.C.M. 1947, 5-517; amd. Sec. 1, Ch. 535, L. 1983; amd. Sec. 4, Ch. 199, L. 1989; (2) En. Sec. 6, Ch. 199, L. 1989.

32-1-434. Financial institutions authorized to obtain insurance and make loans when approved by federal housing administrator.

Notwithstanding any other provisions of the law of this state restricting the amount of any loan in relation to the value of the real estate and/or restricting the term of any such loan and/or restricting the rate of interest on any such loan, it shall be lawful for any corporation, bank, trust company, insurance company, investment company, and any other financial institution which has been approved as a mortgagee by the federal housing administrator to obtain insurance and to make such loans secured by real estate as the federal housing administrator insures or makes a commitment to insure.

History: En. Sec. 1, Ch. 8, L. 1935; re-en. Sec. 6018.1, R.C.M. 1935; amd. Sec. 1, Ch. 25, L. 1937; R.C.M. 1947, 5-1131.

32-1-435. Federal housing securities eligible collateral. Wherever collateral must or may be furnished by any depository in the state of Montana as security for the deposit of any funds whatsoever or wherever collateral must or may be deposited with any official of the state of Montana pursuant to any statute of this state, mortgages insured and debentures issued by the federal housing administrator shall be considered eligible collateral for such purposes.

History: En. Sec. 2, Ch. 25, L. 1937; R.C.M. 1947, 5-1132.

32-1-436. Repealed. Sec. 2, Ch. 9, L. 1983.

History: En. Sec. 48, Ch. 89, L. 1927; re-en. Sec. 6014.52, R.C.M. 1935; amd. Sec. 1, Ch. 239, L. 1969; amd. Sec. 1, Ch. 196, L. 1975; R.C.M. 1947, 5-527.

32-1-437. Acceptance and issuance of drafts -- rulemaking authority. (1) A bank organized and existing under the laws of Montana may accept for payment at a future date drafts drawn upon it by its customers authorizing the holders of the drafts to draw drafts upon it or its correspondents at sight or on time if the total amount of drafts accepted for any one person, firm, or corporation does not at any one time exceed 20% of the capital and surplus of the accepting or issuing bank.

(2) The department may adopt rules to implement this section.

History: En. Sec. 74, Ch. 89, L. 1927; re-en. Sec. 6014.85, R.C.M. 1935; amd. Sec. 11-103, Ch. 264, L. 1963; R.C.M. 1947, 5-1001; amd. Sec. 5, Ch. 199, L. 1989; (2) En. Sec. 6, Ch. 199, L. 1989; amd. Sec. 10, Ch. 265, L. 1995.

32-1-438 through 32-1-439 reserved.

32-1-440. Financial institution's responsibility to provide notice when funds become available for withdrawal. (1) A depository bank shall provide

clear and conspicuous written notice of the time periods and exceptions to the periods concerning when funds become available for withdrawal as of right on deposit by check or similar instrument in the customer's deposit account. The notice must state the cutoff hour, if any, fixed by the financial institution after which an item is treated as being received at the opening of the next business day.

(2) This notice must be:

(a) provided to a potential customer prior to opening a deposit account; and
(b) posted in a conspicuous manner at each financial institution, automated teller machine location, or other device that accepts deposits.

(3) A deposit slip, envelope, or any other printed form furnished by the depository financial institution for use in connection with deposits must contain the following notice, printed in a conspicuous manner: "Your deposit may not be available for immediate withdrawal. Consult posted notices for further information."

History: En. Sec. 1, Ch. 491, L. 1985; amd. Sec. 67, Ch. 51, L. 1999.

32-1-441. Certified checks. (1) Whenever a check drawn on any bank is certified by any officer or employee of such bank, the amount thereof shall be immediately charged against the account of the person, firm, or corporation drawing the same.

(2) It shall be unlawful for any officer or employee of any bank to certify any check drawn upon such bank, unless at the time such check is certified the person, firm, or corporation drawing the check has on deposit with the bank an amount of money subject to the payment of such check equal to the amount specified in such check.

(3) Any officer or employee of any bank who shall willfully violate the provisions of this section or shall resort to any device or receive any fictitious obligation, directly or indirectly, in order to evade the provisions hereof shall be guilty of felony.

History: En. Sec. 47, Ch. 89, L. 1927; re-en. Sec. 6014.51, R.C.M. 1935; amd. Sec. 1, Ch. 9, L. 1947; R.C.M. 1947, 5-526.

32-1-442. Repealed. Sec. 134, Ch. 494, L. 1993.

History: En. Sec. 49, Ch. 89, L. 1927; re-en. Sec. 6014.53, R.C.M. 1935; amd. Sec. 1, Ch. 91, L. 1967; R.C.M. 1947, 5-528.

32-1-443. Repealed. Sec. 134, Ch. 494, L. 1993.

History: En. Sec. 50, Ch. 89, L. 1927; re-en. Sec. 6014.54, R.C.M. 1935; R.C.M. 1947, 5-529.

32-1-444. Deposit in name of minor. Whenever any deposit shall be made in any bank by or in the name of any minor, the same shall be held for the exclusive right and benefit of such minor and free from the control or lien of all persons whatsoever, except creditors, and shall be paid, with any interest due thereon, to the person in whose name the deposit was made, and the receipt of such minor is a sufficient release or discharge for such deposit to the bank.

History: En. Sec. 51, Ch. 89, L. 1927; re-en. Sec. 6014.55, R.C.M. 1935; amd. Sec. 9, Ch. 71, L. 1977; R.C.M. 1947, 5-530.

32-1-445. Demand or time deposits. Demand deposits, within the meaning of this chapter, shall comprise all deposits payable within 7 days, and time deposits shall comprise all deposits payable after 7 days and all savings accounts and certificates of deposit which are subject to not less than 7 days' notice before payment.

History: En. Sec. 52, Ch. 89, L. 1927; re-en. Sec. 6014.56, R.C.M. 1935; R.C.M. 1947, 5-531; amd. Sec. 1, Ch. 75, L. 1985.

32-1-446. Safe deposit department. A bank may conduct a safe deposit department. The liability of any bank for the safekeeping and protection of the contents of safety deposit boxes is determined by the contract endorsed on the receipt delivered to the renter of a box at the time of the rental. However, the obligation of the bank is limited to the exercise of ordinary diligence and care to protect the contents of the box from loss or damage by fire, theft, or other causes.

History: En. Sec. 35, Ch. 89, L. 1927; re-en. Sec. 6014.39, R.C.M. 1935; R.C.M. 1947, 5-514; amd. Sec. 30, Ch. 395, L. 1993; amd. Sec. 78, Ch. 382, L. 1997; amd. Sec. 14, Ch. 163, L. 2005.

32-1-447. Giving security for deposit prohibited -- exceptions. It is unlawful for any bank to pledge, mortgage, or hypothecate to any depositor any of its real or personal property as security for any deposit, and any pledge, mortgage, or hypothecation made in violation thereof is unenforceable. This provision does not apply to any deposits of money of the United States, public funds deposited in accordance with the provisions of any depository act of this state or the United States, or bankruptcy estate funds or deposits, including deposits of receivers or trustees in bankruptcy, deposited under the direction and supervision of a court of record of the state of Montana or of the United States.

History: En. Sec. 112, Ch. 89, L. 1927; re-en. Sec. 6014.123, R.C.M. 1935; amd. Sec. 1, Ch. 33, L. 1941; amd. Sec. 22, Ch. 71, L. 1977; R.C.M. 1947, 5-1039.

32-1-448. Payments to foreign administrator. Any bank doing business in this state may pay any money remaining to the credit of a deceased depositor or deliver any personal property in its possession belonging to such deceased depositor to an administrator or executor of such depositor duly appointed and qualified in another state, provided no demand therefor shall have been previously made by an administrator or executor appointed in any county of this state, and such payment shall discharge the bank making the same from its liability on account of such deposit.

History: En. Sec. 104, Ch. 89, L. 1927; re-en. Sec. 6014.115, R.C.M. 1935; R.C.M. 1947, 5-1031.

32-1-449 through 32-1-450 reserved.

32-1-451. Statement of capital, resources, and liabilities. No bank or officer thereof shall advertise in any manner or publish any statement of the capital authorized or subscribed unless it or he advertises and publishes in connection therewith the amount of capital actually paid up. No bank shall publish a statement of its resources or liabilities in connection with those of any other bank, unless such statement shall show the resources and liabilities of each bank separately.

History: En. Sec. 32, Ch. 89, L. 1927; re-en. Sec. 6014.36, R.C.M. 1935; R.C.M. 1947, 5-511.

32-1-452. Dividends, surplus, losses, and bad debts. (1) The directors of a bank may, at certain times and in the manner as its bylaws prescribe, declare and pay dividends to the stockholders of so much of the net undivided profits of the banks as may be appropriated for that purpose, but every bank shall, before declaring any dividend, carry at least 25% of its net earnings for the period covered by the dividend to its surplus, until the surplus is 50% of its paid-up capital stock. The whole or any part of the surplus may at any time be converted into paid-in capital, but the surplus must be restored as provided in this subsection until it amounts to 50% of the aggregate paid-up capital stock. A larger surplus may be created.

(2) A dividend larger than the previous 2 years' net earnings may not be declared without giving notice to the division.

(3) Losses sustained by a bank in excess of its undivided profits may be

charged to and paid from the surplus, but the surplus must be restored in the manner provided in subsection (1) in the amount required by this chapter.

History: En. Sec. 34, Ch. 89, L. 1927; re-en. Sec. 6014.38, R.C.M. 1935; R.C.M. 1947, 5-513; amd. Sec. 31, Ch. 395, L. 1993.

32-1-453. Calculation of profits. Interest or commissions unpaid, although due or accrued, on debts owing to any bank may not be included in calculation of its profits, unless the bank keeps its books on a complete accrual basis in which event the bank shall show on its books accrued interest receivable on notes, bonds, and other investments, unless the same is past due, and shall also carry on its books accrued interest, taxes, and expenses payable.

History: En. Sec. 46, Ch. 89, L. 1927; amd. Sec. 1, Ch. 64, L. 1931; re-en. Sec. 6014.50, R.C.M. 1935; R.C.M. 1947, 5-525; amd. Sec. 138, Ch. 42, L. 1997.

32-1-454. Past-due and doubtful paper. Every bank carrying any bad debt or a debt of doubtful value as an asset shall upon the request or demand of the department collect the same or put it in good bankable condition or charge it out of its books.

History: En. Sec. 102, Ch. 89, L. 1927; re-en. Sec. 6014.113, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-1029.

32-1-455. Reserve requirements. (1) A bank, except a reserve bank, shall maintain at all times a reserve of that percentage of its deposit liabilities as required by the appropriate federal regulator.

(2) The department may establish reserve requirements if the federal regulator discontinues reserve requirements.

(3) A bank approved by the department as a reserve bank shall maintain at all times a reserve as the department requires by rule.

(4) A solvent bank of good repute having a full paid-up capital and surplus as the department requires by rule and doing business in this state or any other state may be designated by the department as a reserve agent for Montana banking institutions. The approval or designation may be withdrawn or withheld at any time by the department for cause.

(5) A bank whose reserve drops below the legal requirements shall report the matter to the department immediately and as often as the department asks for a report.

(6) When the reserve of a bank falls below the legal requirements, the bank may not increase its loans or discounts except by discounting or purchasing bills of exchange payable at sight or on demand, and the department shall notify a bank whose reserve may be below the amount required to make good the reserve.

(7) In arriving at deposit liabilities with regard to bank deposits, the net balance of amounts due to and from other banks must be used as the basis for ascertaining the deposit liability to banks against which reserves are carried.

(8) Compliance by member banks with the federal reserve banking laws, rules, and regulations is compliance with the reserve requirements and conditions of this chapter and entitles those federal reserve member banks to the rights and privileges accruing from compliance with this chapter.

History: (1) thru (4), (6) thru (8)En. Sec. 53, Ch. 89, L. 1927; re-en. Sec. 6014.57, R.C.M. 1935; amd. Sec. 1, Ch. 6, L. 1967; amd. Sec. 18, Ch. 431, L. 1975; Sec. 5-532, R.C.M. 1947; (5)En. Sec. 103, Ch. 89, L. 1927; re-en. Sec. 6014.114, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; Sec. 5-1030, R.C.M. 1947; R.C.M. 1947, 5-532, 5-1030; amd. Sec. 32, Ch. 395, L. 1993.

32-1-456 through 32-1-460 reserved.

32-1-461. Bonding of employees. (1) The board of directors of a bank shall require bonding for all officers and employees of the bank whose duty includes the handling of money, notes, bonds, credits, and cash items and whose duties include bookkeeping or the making of entries in relation to the business of the bank and its customers.

(2) The board of directors shall by order entered upon the minute books of the board designate the officers and employees to be bonded and the amount of bonds to be given. Action as to the personnel, the amount of bonds, and the surety company or sureties is subject to approval by the department, and the bonds must be in a form provided or approved by the department.

(3) The bonds must be approved by the president of the bank, and the president's or executive officer's action must be reported to the board of directors.

(4) All bonds required by this section must be kept in the custody of the bank subject to inspection by examiners from the department. However, as far as possible, they may not be placed in the custody of the officer or employee for whom the bond is given.

History: En. Sec. 105, Ch. 89, L. 1927; amd. Sec. 3, Ch. 145, L. 1931; re-en. Sec. 6014.116, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; amd. Sec. 21, Ch. 71, L. 1977; R.C.M. 1947, 5-1032; amd. Sec. 79, Ch. 382, L. 1997; amd. Sec. 15, Ch. 163, L. 2005.

32-1-462. Persons previously convicted under banking laws -- bank employment. It is unlawful for a person who has been convicted of a violation of the banking laws of any state or nation to accept employment in a bank in this state without first stating the relevant facts to the directors of the bank. A person

who has been convicted of a banking law violation may not be employed in a bank without the approval of the department, granted in writing after a full consideration of the facts.

History: En. Sec. 120, Ch. 89, L. 1927; re-en. Sec. 6014.130, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-1046; amd. Sec. 80, Ch. 382, L. 1997; amd. Sec. 16, Ch. 163, L. 2005.

32-1-463. Sale of securities by officer to bank. (1) No director, officer, employee, or controlling stockholder of any bank shall, directly or indirectly, for his own account, for himself, or as the partner or agent of others sell or transfer or cause to be sold or transferred to the bank of which he is a director, officer, employee, or controlling stockholder any note or bond secured by any mortgage or trust deed on real estate or any contract arising from the sale of real estate, in which such director, officer, employee, or controlling stockholder is personally or financially interested, without a vote of the majority of the board of such bank, duly noted upon the minutes of the meeting at which such transaction is decided upon, which minutes shall be signed by a majority of the board.

(2) Any director, officer, employee, or controlling stockholder of any bank who knowingly violates or consents to the violation of this provision shall be guilty of a felony.

History: En. Sec. 37, Ch. 89, L. 1927; re-en. Sec. 6014.41, R.C.M. 1935; R.C.M. 1947, 5-516.

32-1-464. Fraud by director, officer, agent, or employee. A director, executive officer, agent, or employee of a bank is guilty of a felony if that person:

(1) knowingly receives or takes possession of any bank property, except in payment for a just demand, and with intent to defraud:

(a) fails to make or to cause or direct to be made a full and true entry of the receipt or possession in its books and account; or

(b) concurs in failing to make any material entry in its books and account;

(2) knowingly concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement that is false; or

(3) having the custody or control of its books, willfully refuses or neglects to make a proper entry in the books of that bank as required by law, to exhibit them, or allow them to be inspected and extracts to be taken from them by the department.

History: En. Sec. 40, Ch. 89, L. 1927; re-en. Sec. 6014.44, R.C.M. 1935; amd. Sec. 16, Ch. 431, L. 1975; amd. Sec. 8, Ch. 71, L. 1977; R.C.M. 1947, 5-

519; amd. Sec. 2, Ch. 36, L. 1979; amd. Sec. 81, Ch. 382, L. 1997; amd. Sec. 17, Ch. 163, L. 2005.

32-1-465. Limit on loans to officer, director, or principal shareholder. (1) Except as provided in subsection (2), a bank may not extend credit to an officer, director, or principal shareholder unless the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to all officers, directors, or principal shareholders, does not exceed the bank's unimpaired capital and unimpaired surplus.

(2) A bank with deposits of less than \$100 million may by resolution of its board of directors increase the general limit in subsection (1) to a limit that does not exceed two times the bank's unimpaired capital and unimpaired surplus if:

(a) the board of directors determines that a higher limit is consistent with prudent, safe, and sound banking practices in light of the bank's experience in lending to officers, directors, and principal shareholders and is necessary to attract or retain directors or to prevent restricting the availability of credit in small communities;

(b) the resolution sets forth the facts and reasoning on which the board of directors bases the finding, including the amount of the bank's lending to officers, directors, and principal shareholders as a percentage of the bank's unimpaired capital and unimpaired surplus as of the date of the resolution;

(c) the bank has submitted the resolution to the department; and

(d) the bank meets or exceeds, on a fully phased-in basis, all applicable capital requirements established by the department.

History: En. Sec. 41, Ch. 89, L. 1927; re-en. Sec. 6014.45, R.C.M. 1935; R.C.M. 1947, 5-520; amd. Sec. 3, Ch. 36, L. 1979; amd. Sec. 33, Ch. 395, L. 1993; amd. Sec. 11, Ch. 265, L. 1995.

32-1-466. Purchase of obligation of bank by officer. No director, officer, agent, or other employee of any bank shall, directly or indirectly, for his own personal benefit, purchase or sell or be interested in the purchase or sale of any obligation of said bank or of any of the assets of said bank for a sum less than shall appear upon the face of the obligation or obligations so purchased or sold. Every person violating the provisions of this section shall, in addition to the general penalties of this chapter, forfeit to the state twice the nominal amount or face value of such obligations or assets so purchased or sold.

History: En. Sec. 43, Ch. 89, L. 1927; re-en. Sec. 6014.47, R.C.M. 1935; R.C.M. 1947, 5-522.

32-1-467. Loans to managing officer. (1) A bank may extend credit to a managing officer of the bank:

(a) in any amount to finance the education of the managing officer's children;
(b) in any amount to finance the purchase, construction, maintenance, or improvement of a residence of the managing officer if the extension of credit is secured by a first lien on the residence and the residence is:

(i) owned by the managing officer; or
(ii) expected to be owned by the managing officer after the extension of credit; and

(c) for any other purpose not specified in subsections (1)(a) and (1)(b) if the aggregate amount of loans to that individual under this subsection (1) does not exceed at any one time the greater of 2.5% of the bank's capital and unimpaired surplus or \$25,000. However, in no event may the aggregate amount of loans to the individual exceed \$100,000.

(2) The department may adopt rules to address loans made before October 1, 1993, and to define capital and unimpaired surplus for purposes of [32-1-465](#) and this section.

History: En. Sec. 45, Ch. 89, L. 1927; re-en. Sec. 6014.49, R.C.M. 1935; R.C.M. 1947, 5-524; amd. Sec. 34, Ch. 395, L. 1993; amd. Sec. 1, Ch. 17, Sp. L. November 1993.

32-1-468. Removal of directors, officers, or employees. A director, officer, or employee of a bank who is found by the department, after examination, to be negligent, dishonest, reckless, or incompetent must be removed from office by the board of directors of the bank on the written order of the department. If the directors neglect or refuse to remove the director, officer, or employee and any losses accrue to the bank by reason of the negligence, dishonesty, recklessness, or incompetency of the director, officer, or employee, the written order of the department is conclusive evidence of the negligence of the directors failing to act as provided in this section in any action brought against them by a depositor or creditor for recovery of losses.

History: En. Sec. 109, Ch. 89, L. 1927; re-en. Sec. 6014.120, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-1036; amd. Sec. 82, Ch. 382, L. 1997; amd. Sec. 18, Ch. 163, L. 2005.

32-1-469 through 32-1-470 reserved.

32-1-471. Penalty for unlawful hypothecation of property received. Any officer or employee of any bank doing business in this state who, except in the manner authorized by law or the contract of the parties, hypothecates, pledges, or in any way alienates any notes, stocks, bonds, mortgages, securities, or any other property coming into his hands or into the possession of the bank

as collateral, for safekeeping or in any other manner, and to which the bank has not acquired full title, is guilty of theft and upon conviction thereof shall be punished as for other felonies.

History: En. Sec. 113, Ch. 89, L. 1927; re-en. Sec. 6014.124, R.C.M. 1935; amd. Sec. 42, Ch. 359, L. 1977; R.C.M. 1947, 5-1040.

committee thereof where the directors have delegated authority to a committee to pass on loans and discounts, any discount or loan made by and in behalf of the corporation or from its assets between the regular meetings of its board of directors or committee, the purchase of any security, the sale of any of its securities, or any guarantee, repurchase agreement, or any other agreement whereby the corporation is obligated, during the same period, is guilty of a misdemeanor and on conviction must be imprisoned in the county jail for not more than 12 months for each offense and may also be fined not more than \$500, at the discretion of the court.

History: En. Sec. 114, Ch. 89, L. 1927; re-en. Sec. 6014.125, R.C.M. 1935; R.C.M. 1947, 5-1041.

32-1-472. Concealing actions from directors. Any officer or employee of any bank who intentionally conceals from the directors of such corporation, or committee thereof where the directors have delegated authority to a committee to pass on loans and discounts, any discount or loan made by and in behalf of the corporation or from its assets between the regular meetings of its board of directors or committee, the purchase of any security, the sale of any of its securities, or any guarantee, repurchase agreement, or any other agreement whereby the corporation is obligated, during the same period, is guilty of a misdemeanor and on conviction must be imprisoned in the county jail for not more than 12 months for each offense and may also be fined not more than \$500, at the discretion of the court.

History: En. Sec. 114, Ch. 89, L. 1927; re-en. Sec. 6014.125, R.C.M. 1935; R.C.M. 1947, 5-1041.

32-1-473. Theft of funds by directors, officers, or employees. A director, officer, or employee of a bank who fraudulently appropriates or abstracts or misapplies any of the money, funds, credits, or property of the bank when owned by it or held in trust or who issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree with intent to injure or defraud the bank or any person or corporation or to deceive any officer of the bank, any other person, or anyone appointed to examine the affairs of the

bank or any other person who with like intent, aids or abets any director, officer, or employee in the violation of this section is guilty of theft and upon conviction shall be imprisoned in the state prison for a period of not to exceed 20 years or be fined an amount not to exceed \$50,000, or both.

History: En. Sec. 117, Ch. 89, L. 1927; re-en. Sec. 6014.128, R.C.M. 1935; amd. Sec. 43, Ch. 359, L. 1977; R.C.M. 1947, 5-1044; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 83, Ch. 382, L. 1997; amd. Sec. 19, Ch. 163, L. 2005.

32-1-474. False statement to obtain loan. Whoever shall make any statement, knowing it to be false, for the purpose of obtaining for himself or for any other person, firm, corporation, or association a loan of money from any bank or for the purpose of gaining an extension of time of payment of any debt due such bank shall be punished by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 1 year, or both.

History: En. Sec. 118, Ch. 89, L. 1927; re-en. Sec. 6014.129, R.C.M. 1935; R.C.M. 1947, 5-1045.

32-1-475 through 32-1-480 reserved.

32-1-481. Bank holidays. In addition to emergency closings authorized by [32-1-561](#) through [32-1-565](#), a bank in the state of Montana may remain closed and refrain from doing business on those legal holidays designated in [1-1-216](#).

History: En. Sec. 10, Pol. C. 1895; re-en. Sec. 10, Rev. C. 1907; amd. Sec. 1, Ch. 21, L. 1921; re-en. Sec. 10, R.C.M. 1921; Cal. Pol. C. Secs. 10-11; re-en. Sec. 10, R.C.M. 1935; amd. Sec. 1, Ch. 209, L. 1955; amd. Sec. 1, Ch. 6, L. 1965; amd. Sec. 1, Ch. 89, L. 1969; amd. Sec. 6, Ch. 32, L. 1971; amd. Sec. 1, Ch. 16, L. 1974; R.C.M. 1947, 19-107(part); amd. Sec. 1, Ch. 264, L. 1979; amd. Sec. 1, Ch. 435, L. 1983.

32-1-482. Transaction on holidays. Nothing in any law of this state shall in any manner whatsoever affect the validity of, or render void or voidable, the payment, certification, or acceptance of a check or other negotiable instrument or any other transaction by a bank in this state because done or performed during any time other than regular banking hours or on a legal holiday, provided that nothing shall be construed herein to compel any bank in this state, which by law or custom is entitled to close at 12 noon on any Saturday or for the whole or part of any legal holiday, to keep open for transaction of business or to perform any of the acts or transactions aforesaid on any Saturday after such hour or on any legal holiday except at its option.

History: En. Sec. 115, Ch. 89, L. 1927; re-en. Sec. 4016.126, R.C.M. 1935; R.C.M. 1947, 5-1042.

association incorporated or organized under the laws of the United States of America and any federal reserve bank may, at its election, remain closed and refrain from the transaction of any business on Saturdays. Any Saturday on which any such bank remains closed shall be, with respect to such bank, a holiday and not a business day. Any act authorized, required, or permitted to be performed on a Saturday at or by or with respect to any bank including any national bank or national banking association and any federal reserve bank may be performed on the next succeeding business day, and no liability or loss of any rights of any kind shall result from such closing on Saturday or from the nonopening of any bank for the transaction of business on any Saturday under the authority of [32-1-483](#) through [32-1-485](#).

History: En. Sec. 1, Ch. 124, L. 1955; amd. Sec. 23, Ch. 71, L. 1977; R.C.M. 1947, 5-1055.

32-1-483. Closing on Saturdays authorized -- Saturday treated as holiday. Any bank as defined in [32-1-102](#) and any national bank or national banking association incorporated or organized under the laws of the United States of America and any federal reserve bank may, at its election, remain closed and refrain from the transaction of any business on Saturdays. Any Saturday on which any such bank remains closed shall be, with respect to such bank, a holiday and not a business day. Any act authorized, required, or permitted to be performed on a Saturday at or by or with respect to any bank including any national bank or national banking association and any federal reserve bank may be performed on the next succeeding business day, and no liability or loss of any rights of any kind shall result from such closing on Saturday or from the nonopening of any bank for the transaction of business on any Saturday under the authority of [32-1-483](#) through [32-1-485](#).

History: En. Sec. 1, Ch. 124, L. 1955; amd. Sec. 23, Ch. 71, L. 1977; R.C.M. 1947, 5-1055.

32-1-484. Banking hours and business days. A bank may provide for its banking hours or business days by giving reasonable notice to the public and providing a copy of the notice to the department.

History: En. Sec. 2, Ch. 124, L. 1955; R.C.M. 1947, 5-1056; amd. Sec. 35, Ch. 395, L. 1993.

32-1-485. Interest payable at bank on Saturday -- how paid. Where, by the terms of any note or obligation, interest is payable to a bank on any Saturday upon which a bank is closed pursuant to the authority of [32-1-483](#) through [32-1-485](#), interest payable to such bank on any such Saturday may be paid in the amount due on such Saturday on the next succeeding business day with the same effect as if paid to such bank on such Saturday.

History: En. Sec. 3, Ch. 124, L. 1955; R.C.M. 1947, 5-1057.

32-1-486 through 32-1-490 reserved.

32-1-491. Destruction of records. (1) Banks are required to preserve or keep their records of customer accounts for at least 8 years after January 1 of the year following the time that the records are made. However, records showing unpaid balances in favor of depositors of a bank may not be destroyed. Liability may not accrue against a bank destroying any records, except records of which destruction is forbidden by this section, after the expiration of the time provided in this section.

(2) The department shall adopt rules providing for retention schedules for bank records other than those records listed in subsection (1).

History: En. Sec. 1, Ch. 77, L. 1951; R.C.M. 1947, 5-1050; amd. Sec. 1, Ch. 314, L. 1983; amd. Sec. 84, Ch. 382, L. 1997; amd. Sec. 20, Ch. 163, L. 2005.

32-1-492. Definitions -- reproduction of bank records -- admissibility in evidence -- cost recovery. (1) (a) For the purposes of this section, "bank records" includes any document, paper, letter, book, map, photograph, sound or video recording, magnetic tape, electronic-storage medium, or other information- recording medium used in a bank's normal course of business.

(b) (i) For the purposes of this section, "electronic storage" means the recording, storage, retention, maintenance, and reproduction of documents using microfilm, microfiche, data processing, computers, or other electronic process that correctly and legibly stores and reproduces documents.

(ii) A photographic, photostatic, miniature photographic copy, or reproduction of any kind, including electronic or computer-generated data that has been electronically stored and is capable of being converted into written form, must be considered an original record for all purposes and must be treated as an original record in all courts and administrative agencies for the purposes of admissibility in evidence.

(iii) A facsimile, exemplification, or certified copy of any reproduction referred to in subsection (1)(b)(ii) must, for all purposes, be considered a facsimile,

exemplification, or certified copy of the original record.

(2) Except as provided in subsection (6), banks are authorized to make, at any time, photographic or photostatic copies or microfilm reproductions of any records or documents, including photographic enlargements and prints of microfilms, to be preserved, stored, used, and employed in carrying on business.

(3) In an action or proceeding in which bank records may be called in question or be demanded of a bank or any officer or employee of a bank, a showing that the records have been destroyed in the regular course of business is a sufficient excuse for the failure to produce the records.

(4) Upon the showing required in subsection (3), secondary evidence of the form, text, and contents of the original records, including photostatic, photographic, or microfilm reproductions, photographic enlargements, and prints of microfilm reproductions, when made in the regular course of business, is admissible in evidence in any court of competent jurisdiction or in any administrative proceeding.

(5) Any photostatic, photographic, or microfilm reproductions, including enlargements of the microfilm reproductions, made in the regular course of business of any original files, records, books, cards, tickets, deposit slips, or memoranda that were in existence on July 1, 1951, are admissible in evidence as proof of the form, text, and content of the originals that were destroyed in the regular course of business.

(6) A bank may, as a condition of providing bank records to a third party in response to a subpoena or to another legal procedure or request, charge and collect the actual costs incurred in locating, reproducing, and providing the bank records.

History: En. Sec. 2, Ch. 77, L. 1951; R.C.M. 1947, 5-1051; amd. Sec. 1, Ch. 237, L. 1997; amd. Sec. 85, Ch. 382, L. 1997; amd. Sec. 6, Ch. 100, L. 1999; amd. Sec. 21, Ch. 163, L. 2005.

32-1-493. Admissibility of copies in evidence -- exception when original available. Any photostatic or photographic or microfilm reproductions (including enlargements of the latter) of any original records or files of any bank, whether in the form of an entry or entries in a book or any other form of record, shall be admissible in evidence in any court of competent jurisdiction in proof of an act, transaction, occurrence, or event when shown to be made in the regular course of business of the bank. But nothing contained in [32-1-491](#) through [32-1-495](#) shall be construed to authorize the use of secondary evidence in administrative or court proceedings when original records are in existence and available for use in accord with the rules of evidence.

32-1-494. Destruction or reproduction "in regular course of business" defined. Destruction in the regular course of business shall include

destruction at any time after making such reproductions. Reproductions made in the regular course of business shall include reproductions made at any time prior to the destruction of the original, in each case, if done in good faith and without intent to defraud.

History: En. Sec. 4, Ch. 77, L. 1951; R.C.M. 1947, 5-1053.

History: En. Sec. 3, Ch. 77, L. 1951; R.C.M. 1947, 5-1052.

32-1-495. Application. The provisions of [32-1-491](#) through [32-1-495](#) shall be applicable to all records in existence on February 23, 1951, and to all records originating after said date and shall apply to all banks organized under the laws of the state of Montana and also to all national banks located in the state of Montana, as far as applicable to such national banks.

History: En. Sec. 5, Ch. 77, L. 1951; R.C.M. 1947, 5-1054.

32-1-501. Dissolution and disincorporation. Commercial banks, savings banks, trust companies, and investment companies may be dissolved in the manner provided by the laws of this state applicable to the dissolution of other corporations. However, a bank or trust company may, upon a vote of two-thirds of its stockholders at a special meeting called for that purpose in accordance with its bylaws, voluntarily quit business and liquidate upon the payment of its debts, exclusive of liability to stockholders, or upon agreement with all of its creditors to a plan of liquidation. A bank or trust company that wishes to voluntarily liquidate shall apply to the department for permission to liquidate and, in addition to complying with the laws of this state governing the liquidation of corporations, shall comply in all respects with the requirements or rules of the department governing voluntary dissolution. The board of directors of a bank or trust company whose stockholders have voted to place it in voluntary liquidation shall appoint a liquidating agent to wind up the affairs of the bank or trust company. The liquidating agent, on authority of the board of directors, may execute deeds for the transfer of real property and do all things necessary to carry out the proper liquidation of the bank or trust company. Nothing in this section prevents the department from taking charge at any time when in its opinion the interest of creditors or stockholders is not being protected. The decision of the department in these matters is controlling.

History: En. Sec. 20, Ch. 89, L. 1927; amd. Sec. 2, Ch. 145, L. 1931; amd. Sec. 1, Ch. 10, L. 1935; re-en. Sec. 6014.24, R.C.M. 1935; amd. Sec. 10, Ch. 431, L. 1975; R.C.M. 1947, 5-301; amd. Sec. 86, Ch. 382, L. 1997; amd. Sec. 22, Ch. 163, L. 2005.

32-1-502. Grounds for closing bank. (1) When it appears to the department that:

- (a) a bank has willfully violated its charter or a law of this state;
- (b) a bank has willfully violated a general rule of the department, made in accordance with law;
- (c) the capital of a bank is impaired or for any reason is below the amount required by law and has not been made good after notice, as provided by law, or, without that notice, in the event a majority of the board of directors of the bank notifies the department in writing that the impairment cannot be made good;
- (d) a bank cannot meet or has failed to meet its liabilities as they become due in the regular course of business;
- (e) a bank's reserve has fallen below the amount required by law and it has failed to make good that reserve within 30 days after being requested to do so by the department or, without that notice, if a majority of the directors, in writing, notifies the department that the reserve cannot be made good within 30 days or if it is continually allowing its reserve to fall below the required amount;
- (f) a bank is conducting business in an unsafe and unauthorized manner or is in an unsafe or unsound condition;
- (g) a bank refused to submit its papers, books, and concerns to the inspection of the department; or
- (h) an officer of a bank has refused to be examined under oath regarding the affairs, business, or concerns of any bank insofar as they relate to solvency or matters having to do with the supervision by the department; then the department may, in its discretion, close the bank and take possession of all the books, records, assets, and business of every description of the bank and hold them and retain possession of them until the bank is authorized by the department to resume business or its affairs are liquidated as provided in this chapter, and it shall do so in cases where a bank comes into its possession voluntarily or in the manner provided by law.

(2) The powers and authority conferred on the department by this section, except in cases of voluntary surrender, are discretionary and not mandatory. As long as the department acts in good faith, the department and its employees and agents may not be held liable civilly or criminally or upon their official bonds for action taken under this section or for any failure to act under it.

History: En. Sec. 121, Ch. 89, L. 1927; re-en. Sec. 6014.131, R.C.M. 1935; amd. Sec. 43, Ch. 431, L. 1975; R.C.M. 1947, 5-1101.

32-1-503. Bank insolvent when. A bank is insolvent within the meaning of this chapter when all of its capital, surplus, and undivided profits are absorbed

in losses and the remaining assets are not sufficient to pay and discharge its contracts, debts, and engagements.

History: En. Sec. 88, Ch. 89, L. 1927; re-en. Sec. 6014.99, R.C.M. 1935; R.C.M. 1947, 5-1015.

32-1-504. Deposits in insolvent bank. (1) Except as otherwise provided by the Uniform Commercial Code, whenever any bank shall be insolvent in the manner described and set forth in this chapter, such bank shall not accept or receive on deposit any money, bank bills or notes, United States treasury notes or currency, or other notes, bills, or drafts circulating as money or currency or transact any other business in connection with its operations, except as trustee for the depositors and parties transacting business with them, and it or they shall keep all such deposits of money, bills or notes, or United States treasury notes or currency, or other notes, bills, or drafts circulating as money or currency separate and apart from the general assets of the bank from and after the date of the accrual of such insolvency. When such impairment or insolvency has been made good, such deposits received in trust may be transferred to the general assets of the bank on and by written consent of the department.

(2) In the event such insolvency be not made good, then any and all such trust deposits shall be returned to the depositors making them.

(3) Any officer, director, cashier, manager, member, partner, or managing partner thereof who shall knowingly accept or receive, be accessory to, or permit or connive at the receiving or accepting of such trust deposits, except in the manner hereinbefore set forth in this section, shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$10,000 or imprisonment in the state prison not exceeding 5 years or by both fine and imprisonment.

History: En. Sec. 70, Ch. 89, L. 1927; re-en. Sec. 6014.74, R.C.M. 1935; amd. Sec. 11-102, Ch. 264, L. 1963; amd. Sec. 170, Ch. 431, L. 1975; R.C.M. 1947, 5-803.

32-1-505. Penalty for receiving deposits when insolvent or for making false statements. (1) Any officer, agent, or clerk of any bank, knowing such bank to be insolvent, who receives money, bank bills, notes of the United States, or currency or other bills or drafts circulating as money or currency, except in the manner set forth in [32-1-504](#); subscribes or makes any false statements or entries in the books of such bank; knowingly subscribes or exhibits any false paper with the intent to deceive any person authorized to examine as to the condition of such bank; or willfully subscribes or makes false reports is subject to imprisonment in the state prison for a term not exceeding 5 years, a fine not exceeding \$50,000, or both.

(2) Any person or the members of any partnership or banking association who willfully or knowingly receive deposits, money, or commercial papers circulating as money, when such person, partnership, or banking association is insolvent, or who subscribe or make any false statement or entries in the books of any such bank or who knowingly subscribe or exhibit any false papers with the intention of deceiving any person authorized to examine the condition of any bank provided for in this chapter or who willfully subscribe or make false reports to the department shall be guilty of a felony and shall be punishable by imprisonment in the state prison for a term not exceeding 5 years, by a fine not exceeding \$50,000, or by both such fine and imprisonment.

History: (1)En. Sec. 69, Ch. 89, L. 1927; re-en. Sec. 6014.73, R.C.M. 1935; amd. Sec. 16, Ch. 71, L. 1977; Sec. 5-802, R.C.M. 1947; (2)En. Sec. 87, Ch. 89, L. 1927; re-en. Sec. 6014.98, R.C.M. 1935; amd. Sec. 170, Ch. 431, L. 1975; Sec. 5-1014, R.C.M. 1947; R.C.M. 1947, 5-802, 5-1014; amd. Sec. 7, Ch. 198, L. 1981.

32-1-506. Assessment on capital stock to make good impairment. (1) When the department determines that an impairment of capital exists in a bank, it may, in its discretion, notify the board of directors of the bank by written notice that the impairment exists, stating the amount thereof in dollars and percentage of the capital stock, and it may, in its discretion, order the board to make good the impairment within 90 days from date of the notice.

(2) The board of directors shall, upon receipt of notice, convene and pass a resolution reciting the receipt of the notice of impairment and calling a special meeting of the stockholders of the bank in the manner provided in their bylaws.

(3) The stockholders at the meeting shall pass a resolution reciting the facts of receipt of notice from the department, notice of impairment, and notice of meeting and assessing themselves by assessing the stock of record, payment of which assessment must be made within the time limit specified by the department as provided in notice of impairment.

(4) If there is any stock remaining on which the assessment is not paid as provided in this section, it or a part of it as is necessary to pay the assessment shall be sold by the board of directors, acting through the cashier or secretary of the bank, at public or private sale, as appears best for all concerned, not less than 30 days after the day fixed for payment of assessment. Notice of the time and place of the sale shall be given by certified or registered mail to the stockholders by the board through its cashier or secretary at least 10 days prior to the sale. A sale of stock as provided in this section causes an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold and makes them void in the hands of the stockholder or his assigns or pledgees. A new certificate shall be issued by the bank to the purchaser for the number of shares purchased and a new certificate issued to the stockholder of record and delivered to him or any pledgee or assignee of the stock for the

remaining shares, if any. The record of the original certificate sold shall be marked canceled on the books of the bank, and that record is prima facie evidence of the regularity of the proceedings for the sale of the stock.

(5) If a bank fails to make good its capital impairment upon demand of the department, as provided in this section, the department may immediately take charge of that bank and proceed to liquidate it as in case of insolvency.

(6) If the stock does not sell for enough to pay the assessment on it, the board of directors may sue in the name of the corporation to collect the deficiency from the stockholder of record whose stock has been sold for the assessment.

History: En. Sec. 68, Ch. 89, L. 1927; re-en. Sec. 6014.72, R.C.M. 1935; amd. Sec. 29, Ch. 431, L. 1975; R.C.M. 1947, 5-801; amd. Sec. 4, Ch. 36, L. 1979.

32-1-507. Power of closed banks to borrow money from governmental agencies. (1) Except as provided in subsection (2), after applying to and obtaining the approval of the department and the district court of the county in which the bank or trust or investment company is located, the liquidating agents of closed banks may borrow money from an agency of the federal government on behalf of commercial banks, savings banks, trust companies, and investment companies closed and in liquidation. As security for the loan the liquidating agent may pledge or mortgage assets and properties for the purpose of paying depositors or creditors in part or in full.

(2) If the federal deposit insurance corporation is appointed as the liquidating agent, the reporting and district court approval requirements of subsection (1) do not apply.

History: En. Sec. 1, Ch. 3, Ex. L. 1933; re-en. Sec. 6015.1, R.C.M. 1935; amd. Sec. 62, Ch. 431, L. 1975; amd. Sec. 26, Ch. 71, L. 1977; R.C.M. 1947, 5-1126; amd. Sec. 36, Ch. 395, L. 1993.

32-1-508. Corporate existence -- ceases when. The charters and the corporate existence of banks shall cease automatically and become nonexistent upon the completion of liquidation of the affairs of said bank, whether accomplished voluntarily or through legal process. For the purposes of this section, a bank's affairs shall be considered liquidated and completed when all of its property of every kind has been sold or applied toward the payment of its obligations and the corporation is left without property in existence or in reasonable expectancy.

History: En. Sec. 106, Ch. 89, L. 1927; re-en. Sec. 6014.117, R.C.M. 1935; R.C.M. 1947, 5-1033.

32-1-509. Taxes on banks which have ceased to do business. Whenever any bank ceases to do business as a bank, no taxes shall be levied or collected in accordance with the laws governing the assessment of banks but its property shall be assessed in accordance with the laws governing the assessment of similar property of private corporations.

History: En. Sec. 95, Ch. 89, L. 1927; re-en. Sec. 6014.106, R.C.M. 1935; R.C.M. 1947, 5-1022.

32-1-510. Penalty for maliciously declaring bank insolvent. If, as a result of malice or for personal gain, an employee or agent of the department declares a bank insolvent, he is subject to a fine not exceeding \$1,000 or imprisonment in the county jail not exceeding 1 year, or both, and shall forfeit his office.

History: En. Sec. 122, Ch. 89, L. 1927; re-en. Sec. 6014.132, R.C.M. 1935; amd. Sec. 44, Ch. 431, L. 1975; R.C.M. 1947, 5-1102.

32-1-511. Bank may be placed in department's possession. A bank may place its affairs and assets under the control and in the possession of the department by posting a notice on the front door of the bank indicating that it is in the possession of the department. The notice shall be signed by a majority of the directors in office of the bank. Immediately upon the posting of the notice by a bank, it shall notify the department of its action.

History: En. Sec. 123, Ch. 89, L. 1927; re-en. Sec. 6014.133, R.C.M. 1935; amd. Sec. 45, Ch. 431, L. 1975; R.C.M. 1947, 5-1103.

32-1-512. Effect of posting notice. The posting of the notice by the directors of a bank or of a like notice by the department is sufficient to place all assets and property of the bank, of whatever nature and wherever located, in possession of the department and operates as a bar to an attachment or other legal proceedings against the bank or its assets. No valid lien or claim can be acquired or created, or transfer or assignment made in any manner, binding or affecting any of the assets of the bank after the posting of the notice or after taking possession of a bank by the department without its consent.

History: En. Sec. 124, Ch. 89, L. 1927; re-en. Sec. 6014.134, R.C.M. 1935; amd. Sec. 46, Ch. 431, L. 1975; R.C.M. 1947, 5-1104.

32-1-513. Taking possession of bank -- notice. On taking possession of the assets and business of the bank, the department shall, in addition to posting notice on the front door of the bank, also notify, personally, by mail or by wire, all corresponding banks and all persons or corporations known to be in possession of any of the estate of the bank.

History: En. Sec. 125, Ch. 89, L. 1927; re-en. Sec. 6014.135, R.C.M. 1935; amd. Sec. 47, Ch. 431, L. 1975; R.C.M. 1947, 5-1105; amd. Sec. 37, Ch. 395, L. 1993.

32-1-514. Resumption after closing. After the department has taken possession of a bank, it may permit that bank to resume business upon conditions which may be approved by the department.

History: En. Sec. 126, Ch. 89, L. 1927; re-en. Sec. 6014.136, R.C.M. 1935; amd. Sec. 48, Ch. 431, L. 1975; amd. Sec. 24, Ch. 71, L. 1977; R.C.M. 1947, 5-1106.

32-1-515. Powers of department on closing bank -- court proceedings.

(1) Upon taking the assets and business of a bank into its possession, the department is authorized to collect all money due to the bank and to do other acts necessary to conserve the bank's assets and business. The department shall proceed to liquidate the affairs of the bank.

(2) The department may, except as limited by the terms of this chapter, do any acts necessary or desirable for the protection of the property and assets of the bank, the speedy and economical liquidation of the assets and affairs of the bank, the payment of creditors, or the reopening and resumption of business when that is practicable or desirable.

(3) The department may institute, in its own name or in the name of the bank, legal proceedings it considers expedient for the purposes of subsection (1).

(4) (a) By applying to the district court of the county in which the bank is located or to the judge of that court, the department may obtain an order to sell, compromise, or compound any bad or doubtful debt or claim and to sell and dispose of any assets. The sale may be made to stockholders, officers, directors, or others interested in the bank on consent of the court.

(b) In the court proceedings the bank must be made a party by notice issued on order of the court or judge, in place of summons, and served upon an officer of the bank if there is an officer in the county.

(5) If the federal deposit insurance corporation is appointed as the liquidating agent, subsection (4) does not apply.

History: En. Sec. 127, Ch. 89, L. 1927; re-en. Sec. 6014.137, R.C.M. 1935; amd. Sec. 49, Ch. 431, L. 1975; R.C.M. 1947, 5-1107; amd. Sec. 38, Ch. 395, L. 1993.

32-1-516. Recourse of aggrieved bank -- injunction. (1) A bank aggrieved by the action of the department in taking possession of its assets or closing its doors may, within 10 days after possession has been taken, apply to the district court of the county in which its principal place of business is located, or to the judge of that court in chambers, to enjoin further proceedings by the department.

(2) The court or the judge in chambers, after notifying the department to appear at a specified time and place to show cause why further proceedings should not be enjoined and after hearing the allegations and proofs of the parties and determining facts, may on the merits dismiss the application or enjoin the department from further proceeding and direct it to surrender the business and assets of the bank.

(3) The application for injunction may be heard at any time after 5 days' notice from the time of service on the department, in the discretion of the court, or at any time prior to then by the consent of the department.

(4) Application shall be made on the verified complaint of the bank, in the form used in civil actions, and a copy of the complaint shall be served on the department with the order to show cause.

(5) The department shall, at least 2 days before the time set for hearing, file with the court and serve upon counsel for plaintiff an answer to the complaint, also in the form used in civil actions. Any questions raised by motion in other actions may be raised in the answer.

(6) On the issues raised by the complaint and answer, the court or the judge at chambers, at the time fixed for showing cause, shall try the matter on the merits by hearing the allegations and proofs of the parties and shall enter judgment, as in the trial of other civil actions.

(7) If the department makes no appearance in the time allowed, the court shall enter its default and proceed to hear the proofs of the plaintiff as in civil actions under similar circumstances and enter judgment accordingly. The judgment entered either after hearing on the merits or by default is a final judgment.

(8) During the pendency of litigation the department shall take that action in relation to the assets of the bank which is necessary to conserve them.

History: En. Sec. 128, Ch. 89, L. 1927; re-en. Sec. 6014.138, R.C.M. 1935; amd. Sec. 50, Ch. 431, L. 1975; R.C.M. 1947, 5-1108.

32-1-517. Department may retain bank employees -- liquidating agent's salary and expenses. (1) The department may retain those officers or

employees of the bank which it considers necessary. It shall require from the agent appointed by it and from those assistants who have charge of any of the assets of the bank that security for the faithful discharge of their duties as it considers proper.

(2) The salary of a liquidating agent and necessary clerical assistance and other expenses incurred by a liquidating agent shall be borne equally and ratably by the bank or banks in process of liquidation under the agent's charge in proportion to the total amount of resources of each of the banks. The funds for those expenses shall be raised by assessing each bank in ratio herein set forth and paying those expenses direct to the persons entitled to them, without depositing any of the funds in the state treasury.

History: En. Sec. 129, Ch. 89, L. 1927; re-en. Sec. 6014.139, R.C.M. 1935; amd. Sec. 51, Ch. 431, L. 1975; R.C.M. 1947, 5-1109.

32-1-518. Compensation of agents and attorneys. (1) Except as provided in subsection (2), after notice to the bank and subject to approval by a district court judge of the county in which the bank is located, the compensation of the agents, attorneys, expert accountants, and other assistants appointed by the department and all expenses of liquidation and distribution of a bank whose assets and business have been taken possession of by the department must be fixed by the department. The department shall, upon written request of the judge, supply semiannual statements showing the condition of the bank in process of liquidation. Except in cases of emergency, the compensation paid to attorneys and expert accountants must be fixed and approved before services are rendered. The compensation must be paid out of the funds of the bank in the hands of the department and are a proper charge and lien on the assets of the bank.

(2) If the federal deposit insurance corporation is appointed as the liquidating agent, the reporting and district court approval requirements of subsection (1) do not apply.

History: En. Sec. 130, Ch. 89, L. 1927; re-en. Sec. 6014.140, R.C.M. 1935; amd. Sec. 52, Ch. 431, L. 1975; R.C.M. 1947, 5-1110; amd. Sec. 39, Ch. 395, L. 1993.

32-1-519 through 32-1-530 reserved.

32-1-531. Notice to creditors of insolvent bank. (1) Except as provided in subsection (2), the department shall give notice by advertisement in a newspaper of general circulation in the town or city in which the bank is situated, if there is one, and, if not, then in some other newspaper published in this state, which the department shall designate, once a week for 2 successive weeks. The notice must call on all persons who have claims against the bank to present

them to the department or its authorized agent at a place specified in the notice and to make sworn proof, in a form to be fixed by the department, within the time specified in the notice, not less than 90 days from the date of the first publication. A copy of the notice must be mailed to all persons whose names appear as creditors upon the books of the bank.

(2) If the federal deposit insurance corporation is appointed as the liquidating agent, the provisions of subsection (1) do not apply and notice to creditors must be given pursuant to federal law.

History: En. Sec. 131, Ch. 89, L. 1927; re-en. Sec. 6014.141, R.C.M. 1935; amd. Sec. 53, Ch. 431, L. 1975; R.C.M. 1947, 5-1111; amd. Sec. 40, Ch. 395, L. 1993.

32-1-532. Claims -- allowance and rejection. (1) Except as provided in subsection (6), the department shall reject or allow all claims in whole or in part and on each claim allowed shall designate the order of its priority.

(2) If a claim is rejected or an order of priority allowed lower than that claimed, notice must be given the claimant personally or by certified mail and an affidavit of the service of the notice, which is prima facie evidence of service, must be filed in the office of the department.

(3) The action of the department is final unless an action is brought by the claimant against the bank in the district court of the county in which the bank is located within 90 days after service. An appeal from the department's allowance may also be taken by any party in interest by serving notice on the department, stating the grounds of objection and filing it in that court within 30 days after allowance.

(4) Within 5 days after the notice, the department shall file in the court and serve on the appellant a copy of the claim and its reasons for allowance.

(5) The court shall, after 5 days' notice of time and place of hearing on the issues raised, hear the proof of the parties and enter judgment reversing, affirming, or modifying the department's action.

(6) If the federal deposit insurance corporation is appointed as the liquidating agent, the provisions of subsections (1) through (5) do not apply and notice to creditors must be given pursuant to federal law.

History: En. Sec. 132, Ch. 89, L. 1927; re-en. Sec. 6014.142, R.C.M. 1935; amd. Sec. 54, Ch. 431, L. 1975; R.C.M. 1947, 5-1112; amd. Sec. 41, Ch. 395, L. 1993.

32-1-533. Payment of claims. (1) Claims presented to the department prior to the expiration of the time fixed in the notice to creditors and allowed by it shall be paid in the order of priority fixed in this chapter.

(2) Those filed after that expiration and within 1 year of that expiration are entitled, after they have been allowed by the department, to share in the

distribution of the assets of the bank only to the extent of the assets undistributed in the hands of the department and available for the payment of claims of their order of priority at the time the claims are filed. As against other claims of the same order of priority on which dividends have been paid, they are entitled to payment in a proportionate amount before further payments are made on those other claims.

(3) All claims filed after the expiration of 1 year following the date fixed in the notice to creditors as the time for presentation of claims are not entitled to be allowed or paid unless all other creditors' claims of any kind, except claims of shareholders based on stock or assessments paid on stock, have been fully paid and a surplus remains in the hands of the department and then only from that surplus.

History: En. Sec. 133, Ch. 89, L. 1927; re-en. Sec. 6014.143, R.C.M. 1935; amd. Sec. 55, Ch. 431, L. 1975; R.C.M. 1947, 5-1113.

32-1-534. Claims -- order of payment -- priorities. (1) Except as otherwise provided by the Uniform Commercial Code, the order of payment of the debts of a bank liquidated by the department is as follows:

(a) the expense of liquidation, including compensation of agents, employees, and attorneys;

(b) all funds of any other bank in process of liquidation by the department and placed on deposit by the department;

(c) all funds held by the bank in trust;

(d) debts due depositors or holders of cashier's checks, certified checks, and drafts on correspondent banks, including protest fees paid by them on valid checks or drafts presented after closing of the bank, pro rata. All deposit balances of other banks or trust companies and all deposits of public funds of every kind (except those actually placed on special deposit under the statutes providing for deposit), including those of the United States, the state of Montana, and every county, district, municipality, political subdivision, or public corporation of this state, whether secured or unsecured or whether deposited in violation of law or otherwise, are included within the terms of this subsection (1)(d) and take the same priority as debts due any other depositor. Accrued interest on savings accounts, certificates of deposit, or other interest-bearing contracts, up to the time of the closing of the bank, is considered as part of the debt due.

(e) interest on the classes of claims contained in subsections (1)(a) through (1)(d) without regard to the priority computed from the date of closing of the bank at the rate of 7% a year;

(f) unliquidated claims for damages and similar claims, including claims of stockholders for amounts claimed to have been voluntarily advanced to the bank or paid in by way of special or voluntary or other assessments.

(2) The department may, in its discretion, without regard to the priorities fixed in subsections (1)(c) through (1)(f) or in preference to the payment of any

claims of creditors within these subsections, pay off and discharge any lien, claim, or charge against the assets or property of the bank in its hands and pay those sums it considers necessary for the preservation, maintenance, conservation, and protection of those assets and property and property on which the bank has liens by mortgage or otherwise. The department may create a fund or retain, in preference to the claim of any creditors in subsections (1)(c) through (1)(f), money for those purposes.

(3) Collateral that has been put up or pledged as security for the payment of bills payable by a bank or loans or discounts that have been outstanding as rediscounts of a bank prior to the closing of it is not available to the other creditors of the bank in whole or in part until the bills payable or rediscounts have been retired, after which offsets as provided in this section must be allowed.

(4) Deposits of a person, firm, or corporation in a bank that is in the possession of the department may be offset against any indebtedness (subject to the conditions of subsection (3)), except assessments on stock, due to the bank from that person, firm, or corporation. All dividends when declared in favor of a creditor of the bank may be applied, in the discretion of the department, in satisfaction of the indebtedness, if any, due the bank from the creditor.

History: En. Sec. 134, Ch. 89, L. 1927; amd. Sec. 4, Ch. 145, L. 1931; re-en. Sec. 6014.144, R.C.M. 1935; amd. Sec. 11-104, Ch. 264, L. 1963; amd. Sec. 56, Ch. 431, L. 1975; R.C.M. 1947, 5-1114; amd. Sec. 5, Ch. 36, L. 1979; amd. Sec. 42, Ch. 395, L. 1993.

32-1-535. Claims -- partial payments -- assignments. (1) The department need not await the expiration of the time allowed for filing claims, as fixed in the notice to the creditors, for the payment of dividends. It may, in its discretion and if under the circumstances of the particular case it considers it expedient and safe, at any time after taking possession of the bank and prior to the expiration of the period fixed for filing of claims, if it has on hand in cash sufficient funds over and above the expenses of liquidation, make pro rata distribution to any class of creditors next entitled to distribution, in the order of priority fixed in this chapter, making that payment to the creditors as they appear on the books and records of the bank and determining the priority and basing its apportionment on the amount shown to be due by the books and records.

(2) At any time after the expiration of the date fixed for the presentation of claims against the bank and from time to time thereafter when, in its discretion, there are sufficient funds available, the department shall, after making proper provisions for the payment of expenses of liquidation, declare and pay dividends to all creditors of the bank pro rata in the order of their priority. If, after the time fixed for presentation of claims against the bank has expired, it appears that a

person, prior to the expiration of the period or at any other time, has been paid more than the pro rata amount due him as compared with the amounts then paid other creditors, nothing more may be paid that creditor until the payment made other creditors places them on equal footing.

(3) In calculating dividends, all disputed claims and deposits shall be taken into account and the amount of dividends upon the disputed claims or deposits shall be held by the department until the validity of those claims or deposits has been finally determined.

(4) Claims against a bank in process of liquidation may be assigned in whole or in part subject to the approval of the department. Assignments of claims are binding upon the department only after they have been filed and allowed by the department and are subject to the payment of the assignor's liabilities to the bank. An assignment shall be made by filing written notice, signed by the original claimant, with the department or person in charge of the bank. No assigned claims may be offset against obligations due the bank. A check or draft drawn against a bank closed or taken possession of by the department, whether issued before or after closing, may not be recognized as a claim against the bank or as an assignment of any amount, whether protested or not protested.

History: En. Sec. 135, Ch. 89, L. 1927; re-en. Sec. 6014.145, R.C.M. 1935; amd. Sec. 5, Ch. 145, L. 1931; amd. Sec. 57, Ch. 431, L. 1975; amd. Sec. 25, Ch. 71, L. 1977; R.C.M. 1947, 5-1115.

32-1-536. Deposit of funds in department's hands. All funds in the hands of the department belonging to a bank in process of liquidation shall be deposited in the department's name in those banks within the state which may be selected and designated by it and subject to its checks. Those funds are to be preferred and protected as provided in this chapter.

History: En. Sec. 136, Ch. 89, L. 1927; re-en. Sec. 6014.146, R.C.M. 1935; amd. Sec. 58, Ch. 431, L. 1975; R.C.M. 1947, 5-1116.

32-1-537. Disposition of unclaimed funds. (1) The department shall certify to the state treasurer a complete list of funds remaining with it that are uncalled for and that have been left with it in its official capacity in trust for depositors in and creditors of a liquidated bank after they have been held by it for 6 months from the date of the final liquidation of the institution. Along with this certificate, the department shall transmit to the state treasurer the funds, with accumulated interest on them, that it has held in trust for 6 months. A copy of the certificate must also be filed with the state auditor, who shall make a record of it.

(2) The state treasurer shall deposit the funds and interest in the general fund.

(3) A depositor or creditor of a liquidated bank who has not been paid the

amount standing to the person's credit as certified to the state treasurer may apply to the department for the amount due. The depositor or creditor shall make an affidavit and offer proof of identity and of the amount due. When satisfied as to the correctness of the claim and of the identity of the person, the department shall forward it to the state treasurer who shall audit the claim and, if found correct, certify the claim to the department. If the department approves the claim, it shall pay the claim to the depositor or creditor.

History: En. Sec. 137, Ch. 89, L. 1927; re-en. Sec. 4016.147, R.C.M. 1935; amd. Sec. 1, Ch. 143, L. 1961; amd. Sec. 59, Ch. 431, L. 1975; amd. Sec. 2, Ch. 343, L. 1977; R.C.M. 1947, 5-1117; amd. Sec. 43, Ch. 395, L. 1993; amd. Sec. 27, Ch. 325, L. 1995; amd. Sec. 33, Ch. 422, L. 1997.

32-1-538. Disposition of assets remaining after payment of claims.

(1) Except as provided in subsection (4), when the department has paid to each depositor and creditor of the bank whose claims have been approved and allowed as provided in this chapter the amount due on them or made satisfactory adjustment of them and has made provisions for unclaimed and unpaid deposits and disputed claims and deposits and has paid all the expenses of liquidation, it shall file a report of its administration of the trust with the clerk of the district court of the county in which the bank is located. If there are remaining assets on hand, the department may apply to the judge of that court for an order authorizing it to surrender the remaining assets, together with all the stationery, correspondence, books, and records kept by the bank while it was a going concern, to the directors of the bank in office at the time of closing it, as trustees for stockholders, or to some other person, if any, designated as trustee by a majority of the stockholders. The report and petition must be set for hearing upon notice that the court may direct. Upon hearing and approval of the report and account and the surrender of the assets as directed, the department is discharged from all further liability or responsibility in connection with the assets and affairs of the bank. The court may, if requested, require the trustees to give bond in an amount the court may fix, conditioned for the faithful performance of their duties. The trustee or trustees shall complete the liquidation of any remaining assets and may sell and dispose of real and personal property as rapidly as possible and shall distribute the proceeds among the stockholders as their rights may appear or dispose of the proceeds in some other manner as the stockholders by majority action direct. The court may upon request of a majority of the stockholders order the department to close up the trust as provided in subsection (2).

(2) If the assets of the bank are insufficient for making payments in full to the depositors and creditors of the bank, then, when the department has liquidated all available assets and disbursed them as provided by law, the department shall file a final report of its liquidation of the bank with the clerk of

court of the county in which the bank is located. Upon notice that the court may order, the report must be set for hearing before the court and, if found correct and all funds accounted for, the court shall approve it. The department may at the same time and in the report make application to the district court of the county in which the bank is located for an order directing the closing of the trust, and upon entry of the order closing the trust, the department is discharged from all further liability or responsibility in connection with the assets and affairs of the bank. The charter of the bank must be forfeited and all the stationery, correspondence, books, and records kept by the bank while it was a going concern and considered by the department to be of no value may be destroyed. However, correspondence or records may not be destroyed until 10 years after the date the bank ceased to be a going concern.

(3) On application for orders as provided in this section, the bank must be made a party by notice issued on order of the court or judge and served in a manner the court directs and applications authorized by this section may be heard at any time upon not less than 5 days' posted or served notice of the hearing.

(4) If the federal deposit insurance corporation is appointed as the liquidating agent, the reporting and district court approval requirements of subsections (1) through (3) do not apply.

History: En. Sec. 138, Ch. 89, L. 1927; amd. Sec. 1, Ch. 78, L. 1935; re-en. Sec. 6014.148, R.C.M. 1935; amd. Sec. 60, Ch. 431, L. 1975; R.C.M. 1947, 5-1118; amd. Sec. 44, Ch. 395, L. 1993.

32-1-539 through 32-1-550 reserved.

32-1-551. Liquidating officer's powers and duties. (1) Except as provided in subsection (3), after taking possession of a bank for the purpose of liquidation, the liquidating officer may as soon as the officer ascertains that the assets of the bank will be insufficient to pay its debts and liabilities, proceed to collect and enforce the stockholders' liability. For that purpose, the officer may institute and maintain in the officer's own name as liquidating officer appropriate suits or actions in any state or federal court of competent jurisdiction. The liquidating officer may receive and receipt for money received on account of stockholders' liability, and any money paid to the liquidating officer by a stockholder in whole or partial satisfaction of the stockholder's liability is not considered paid voluntarily but gives the stockholder the same protection to the extent of the amount paid as if the payments were made after suit by a creditor or the liquidating officer. The liquidating officer may, with the consent of the court having jurisdiction of the liquidation, compromise, settle, and compound

claims for stockholders' liability, and the settlements and compromises when approved by the court are legal and binding upon all parties concerned, including creditors.

(2) (a) Except as provided in subsection (2)(b), all sums collected by a liquidating officer on account of stockholders' liability, either received from voluntary payments or collected by suits, settlements, or compromises, must be distributed to the creditors of the bank according to their several rights in the same proportion as the amount of a given claim of a creditor bears to the amount of the claims of all creditors and without regard to the rank or class or character of claims and without diminution.

(b) The liquidating officer may deduct from amounts collected the court costs or attorney fees (the attorney fees to be allowed for not more than 10% of the amount collected, provided that the 10% allowed for attorney fees may not apply to collections that are made outside of the state of Montana) and other expenses incurred by the officer in the prosecution of any action for collection.

(3) If the federal deposit insurance corporation is appointed as the liquidating agent, the reporting and district court approval requirements of subsections (1) and (2) do not apply.

History: En. as part of Sec. 21, Ch. 89, L. 1927; amd. Sec. 1, Ch. 110, L. 1935; re-en. Sec. 6014.25, R.C.M. 1935; R.C.M. 1947, 5-402; amd. Sec. 45, Ch. 395, L. 1993.

32-1-552. Further duties of liquidating officer. (1) For the purpose of this section the term "liquidating officer" includes every person legally empowered to liquidate the business and affairs of a state bank, whether the liquidation is by the department or its deputies and agents. The term also includes all receivers of state banks qualified to liquidate a state bank under any law of this state.

(2) The liquidating officer of a bank may decide when the assets of a failed bank are not sufficient to pay the debts, contracts, engagements, and liabilities and may determine the time when and the court where necessary legal proceedings are conducted, subject to the general provisions of law governing venue and place of trial.

(3) The provisions of [32-1-551](#) through [32-1-553](#) do not impose liability on a stockholder of a bank that is a member of the federal deposit insurance corporation.

History: En. as part of Sec. 21, Ch. 89, L. 1927; amd. Sec. 1, Ch. 110, L. 1935; re-en. Sec. 6014.25, R.C.M. 1935; amd. Sec. 11, Ch. 431, L. 1975; amd. Sec. 3, Ch. 71, L. 1977; R.C.M. 1947, 5-403(1) thru (3); amd. Sec. 46, Ch. 395, L. 1993

32-1-553. Department to file inventory -- report required -- exception. (1) Except as provided in subsection (2), the department shall,

within 90 days after taking charge of an insolvent bank, file with the district court having jurisdiction a complete inventory of all of the property and assets of the insolvent bank, such as furniture, fixtures, real estate, mortgages, bonds, and notes, secured and unsecured. The department shall every 6 months, or more often if required by the court, file with the court a report showing the status of the liquidation of the bank, the assets that have been liquidated and collected, the amounts and manner of payments made to creditors, the manner in which claims have been handled, and the assets on hand. The report must contain other information the court requires, so that the court and the public may be apprised of the condition of the bank and the manner in which it is being liquidated with respect to the collection and sale of assets belonging to the bank and the manner in which claims are being paid. The report and account must be set for hearing upon the notice the court may require and, if found to be correct, be approved by the court.

(2) If the federal deposit insurance corporation is appointed as the liquidating agent, subsection (1) does not apply.

History: En. as part of Sec. 21, Ch. 89, L. 1927; amd. Sec. 1, Ch. 110, L. 1935; re-en. Sec. 6014.25, R.C.M. 1935; amd. Sec. 11, Ch. 431, L. 1975; amd. Sec. 3, Ch. 71, L. 1977; R.C.M. 1947, 5-403(4); amd. Sec. 47, Ch. 395, L. 1993.

32-1-554 through 32-1-560 reserved.

32-1-561. Definitions. As used in [32-1-562](#) through [32-1-565](#), unless the context requires otherwise, the following definitions apply:

(1) "Bank" includes commercial banks, savings banks, trust companies, any person or association of persons lawfully carrying on the business of banking, whether incorporated or not, and, to the extent that the provisions of [32-1-562](#) through [32-1-565](#) are not inconsistent with and do not infringe upon paramount federal law, also includes national banks.

(2) "Emergency" means any condition or occurrence which may interfere physically with the conduct of normal business operations at any of the offices of a bank or which poses an imminent or existing threat to the safety or security of persons or property or both. Without limiting the generality of the foregoing, an emergency may arise as a result of any of the following:

- (a) fire;
- (b) flood;
- (c) earthquake;
- (d) hurricanes;
- (e) wind, rain, or snowstorms;
- (f) labor disputes and strikes;
- (g) power failures;
- (h) transportation failures;

- (i) interruption of communication facilities;
- (j) shortages of fuel, housing, food, transportation, or labor;
- (k) robbery or attempted robbery;
- (l) actual or threatened enemy attack;
- (m) epidemics or other catastrophes;
- (n) riots, civil commotions, and other acts of lawlessness or violence, actual or threatened.

(3) "Office" means any place at which a bank transacts its business or conducts operations related to its business.

(4) "Officer" means the person or persons designated by the board of directors, board of trustees, or other governing body of a bank to act for the bank in carrying out the provisions of [32-1-562](#) through [32-1-565](#) or, in the absence of a designation or of the officer or officers designated, the president or any other officer currently in charge of the bank or of the office or offices involved.

History: En. Sec. 1, Ch. 32, L. 1971; amd. Sec. 38, Ch. 431, L. 1975; R.C.M. 1947, 5-1058.

32-1-562. Power of department. When the department is of the opinion that an emergency exists or is impending in this state or in any part of this state, it may, by proclamation, authorize banks located in the affected area to close any of their offices. In addition, if the department is of the opinion that an emergency exists or is impending which affects or may affect a particular bank or banks, or a particular office or offices thereof, but not banks located in the area generally, it may authorize the particular bank or banks or office or offices so affected to close. The office or offices so closed shall remain closed until the department proclaims that the emergency has ended or until such earlier time as the officers of the bank determine that one or more offices theretofore closed because of the emergency should reopen and, in either event, for such further time thereafter as may reasonably be required to reopen.

History: En. Sec. 2, Ch. 32, L. 1971; amd. Sec. 39, Ch. 431, L. 1975; R.C.M. 1947, 5-1059.

32-1-563. Powers of officers. (1) When the officers of a bank are of the opinion that an emergency exists or is impending which affects or may affect any of a bank's offices, they may, in the reasonable and proper exercise of their discretion, determine not to open any of those offices on any banking day or, if having opened, to close any of those offices during the continuation of the emergency, even if the department has not issued and does not issue a proclamation of emergency. An office so closed shall remain closed until the officers determine that the emergency has ended and for a further time thereafter as may reasonably be required to reopen. However, in no case shall

an office remain closed for more than 48 consecutive hours, excluding other legal holidays, without requesting the approval of the department.

(2) The officers of a bank may close any of the bank's offices on any day:

(a) designated by proclamation of the president of the United States or the governor of this state as a day of mourning, rejoicing, or other special observance; or

(b) that the federal reserve bank of Minneapolis is not open for business.

History: En. Sec. 3, Ch. 32, L. 1971; amd. Sec. 40, Ch. 431, L. 1975; R.C.M. 1947, 5-1060; amd. Sec. 2, Ch. 264, L. 1979.

32-1-564. Notice of bank closing. A bank closing an office under authority granted under [32-1-563](#)(1) shall give to the department as prompt notice of its action as conditions will permit and by any means available, and, in the case of a national bank, to the comptroller of the currency.

History: En. Sec. 4, Ch. 32, L. 1971; amd. Sec. 41, Ch. 431, L. 1975; R.C.M. 1947, 5-1061.

32-1-565. Effect of closing. (1) A day on which a bank or any of its offices is closed during any part of its normal banking hours under [32-1-562](#) and [32-1-563](#) with respect to that bank or, if not all of its offices are closed, then with respect to the office or offices which are closed shall be a legal holiday for all purposes with respect to any banking business. No liability or loss of rights of any kind on the part of a bank, or director, officer, or employee thereof, may accrue or result by virtue of a closing authorized by [32-1-562](#) and [32-1-563](#).

(2) The provisions of [32-1-561](#) through [32-1-565](#) are in addition to any other law of this state or of the United States authorizing the closing of a bank or excusing the delay by a bank in the performance of its duties and obligations because of emergencies or conditions beyond the bank's control or otherwise.

History: En. Sec. 5, Ch. 32, L. 1971; amd. Sec. 42, Ch. 431, L. 1975; R.C.M. 1947, 5-1062.